

FROM GENEVA
TO SAN FRANCISCO

BY THE SAME AUTHOR:

JUDÆA LIVES AGAIN

JEWISH YOUTH COMES HOME

WANDERER BETWEEN TWO WORLDS

WANDERER IN WAR

FROM GENEVA
TO SAN FRANCISCO

*An Account of the International Organisation
of the New Order*

by

NORMAN BENTWICH

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PREFACE

IN THIS BOOK I HAVE sought to give, for the common man, an account and explanation of the principal international instruments of the new World Order, in which he lives. Last year Mr. Arnold-Forster, in his *Charters of the Peace*, wrote a commentary upon the Atlantic Charter and the Declarations of Moscow, Cairo, and Teheran. Since his book appeared, we have had a generous dispensation of Charters and International Agreements. In the first place, the Charter of the United Nations, signed at San Francisco, and following the project drawn up at Dumbarton Oaks. Then the Statute of the International Court of Justice, which is attached to that Charter, and the Charter of the International Military Tribunal for the trial of the principal war criminals.

The Conferences of the functional organisations have formulated, in the same period, fresh agreements, though not all of them are yet adopted. Bretton Woods gave the plan for the International Monetary Fund and the International Bank for Reconstruction and Development. The Conference of the I.L.O at Philadelphia gave a Declaration which reaffirmed and largely amplified the principles of the International Organisation concerned with Labour and Social Security. A Conference at Chicago gave the plan for an International Aviation Authority. Last of all, a projected Conference in London is to consider a plan for an International Educational and Cultural Organisation.

Some of the bright hopes of the Atlantic Charter have been blurred by the quick, sad stain of political passions. But if it would be rash to expect the millennium from the Charters and Conventions, it would be foolish to expect nothing from them. They mark a step forward on the way to world government, and are designed to establish an organised—but not yet an organic—world society. I have not tried to read more into the documents than the official commentaries of the British and American Governments or of the Conference itself affirmed. The purpose has been rather to expound than to criticise. It is the understanding of the common man about the New Order which more than anything else will determine its destiny.

I am under obligation to the books of two friends: Sir Alfred Zimmern's *The League of Nations and the Rule of Law*, which gives

the background of the League: and the Rev. Henry Carter's recent *Towards World Recovery*, which gives the background of functional organisations established during the war. I am under obligation also to the editors of the *Fortnightly Review* and the *Political Quarterly*, who have allowed me to use material in articles about the International Court of Justice and Colonial Trusteeship which appeared in those reviews. Lastly, I would thank Miss Sally Richardson, who has helped me generally in the writing of the book.

September 1, 1945. (Sixth Anniversary of outbreak of the Second World War.)

P.S.—So much has happened during the three months, between sending the book to the press and the receipt of the proofs, and so much more will happen before the book is finally published, that many statements in it must appear obsolete. Events move to-day much quicker than the printers. The first meeting of the United Nations Organisation has been fixed, and will have taken place; the conference of the Educational and Cultural Organisation has been held in London, and decisions have been taken about that organ of the United Nations; the Bretton Woods Agreement has been adopted by Great Britain and the United States, and the economic relations between the two English-speaking Powers have been fixed by a loan. On the other side, the relations between the Three Great Powers, Great Britain, U.S.A. and U.S.S.R., have become strained, and at times the pivot of the Organisation has seemed to be in peril. It would have been possible to introduce changes into the proofs to take account of these conditions. But before the book was available to the public, the additions themselves would be likely to need some modification. So the original text, with a few changes of dates, has been left unchanged.

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CHAPTER I

FROM THE COVENANT OF THE LEAGUE TO THE CHARTERS OF THE UNITED NATIONS

THIS YEAR WAS THE twenty-fifth anniversary of the first meeting of the Assembly and the Council of the League of Nations, which marked the first attempt to establish permanent world organs. One of the major tasks of the peace-making at the end of the First World War was to organise "a general association of nations under specific covenants, for the purpose of affording mutual guarantees of political and territorial integrity to great and small States alike." The League of Nations was a response to the idea that war anywhere was a threat to the peace of all. By man's control over Nature, the world has become one neighbourhood. There is a world society of things, if not of men. The League should be an organised society of nations, and help man to become a citizen of the world.

The Covenant of the League, which was included in the Treaty of Versailles and other Peace Treaties, was an attempt to give effective expression to the internationalism of facts and the vague aspirations for the rule of law between States. It was unfortunate that it was part of the settlement with the enemy, so that it appeared as "the honourable daughter of a disreputable mother." The main purpose, which was to promote international peace and security, was carried out by rudimentary political organs of the interstate society. The Assembly, which included representatives of all member States, was a deliberative body: The Council, which included permanent representatives of the principal Powers and others elected for a term of years, was an executive body; and the Secretariat was an international civil service. In addition, a permanent Court of International Justice, to try disputes of a legal character between nations, was set up at The Hague; and States could plead their cause before the Bar of Humanity.

The Treaties included also a Charter of Labour and the Constitution of an International Labour Office. It was recognised that World Peace depended in great part upon the establishment of fair social conditions in each State, and economic security of individual men and women.

The member States of the League accepted the obligation not to resort to war, but to seek in every case a peaceful settlement of disputes between them. Any war, or threat of war, whether immediately affecting members or not, was a matter of concern to the whole League. If any dispute was likely to lead to a rupture, they would submit the matter either to arbitration or judicial settlement—by the Court of International Justice or other Tribunal—or to inquiry by the Council. In no case would they resort to war until three months had passed after the judicial decision or the report of the Council. Disputes of a legal or, as it is called, justiciable character would be submitted to arbitration or judicial settlement. Disputes of a political, economic, or otherwise non-legal character would go to the Council, who might refer them to the Assembly. If the Council failed to reach a peaceful settlement, it should make and publish a report containing a statement of the facts and its recommendations for the settlement. It was one of the weaknesses of the League that, in order to bind States in conflict, the decision had to be unanimous. Even the parties to the dispute must agree, and there was no power to impose the solution recommended by all other members of the Council.

Sanctions were provided, however, against the State which, disregarding its pledge not to go to war, committed an act of aggression against another State. An offender should be deemed to have committed an act of war against all other members of the League, which undertook immediately to subject it to the severance of all trade and financial relations. If those sanctions were not effective, and the aggressor continued acts of war, it was the duty of the Council to recommend to the Governments of the member States what effective military, naval or air forces they should severally contribute. The policy of collective security was to be executed, not by a single international force, but by combined contingents of the armed forces from all the member States. It was never applied.

Two other clauses of the Covenant were designed to prevent war and aggression through collective action of the League organs. One article declared that the members should respect, as against external aggression, the territorial integrity and existing political independence of all members; and in case of aggression, or threat of it, the Council should advise upon the means by which the obligation should be fulfilled. The other article gave to the Assembly—not to the Council—the power of advising the revision of treaties “which have become inapplicable, and reconsideration of international conditions whose

continuance might endanger the peace of the world." The scheme for maintaining the peace was adequate, if there had been the will to apply it; the world League would command such overwhelming force that no single State would dare to challenge it. Unhappily, the will was lacking, and when the challenge came, the overwhelming force was lacking. An attempt that was made in 1924 to strengthen the machinery by a further instrument known as the Geneva Protocol, which provided for conciliation or arbitration compulsorily for every dispute, was ineffective, largely because of the unwillingness of the British Government to ratify it. The Labour Prime Minister who was in office in 1924, Mr. Ramsay MacDonald, headed the British delegation to the Assembly which adopted the Convention; but the Conservative Government in the following year was unwilling to pledge Great Britain to an indefinite obligation.

Before the formation of the League of Nations, the habit of international conference had been steadily growing since the end of the Napoleonic Wars; and two attempts had been made to bring about the organisation of international peace by permanent machinery. They were the Peace Conferences, as they were called, held at the Hague in 1899 and 1907. Their principal outcome, paradoxically, was to draw up international conventions concerning the laws of war on land and sea; but one notable step was made towards the peaceful settlement of disputes, by the creation of a permanent tribunal of international arbitration. Hitherto, the movement for arbitration between the nations had advanced by single instances and bilateral treaties. The Hague Conventions marked a halting acceptance of the principle that legal disputes should be settled by legal means, and provided a permanent instrument to which States could turn. After the First World War, the feeling grew that a permanent political organisation must be established to maintain the peace. Yet the statesmen were not prepared to set up any form of international government which would limit the sovereignty of the national State. They turned then to the idea of a permanent international conference. The English names "Covenant" and "League" are significant. "Covenant," which was the title chosen by President Wilson, was reminiscent of the religious tradition of a Presbyterian; and "League"—represented in French by *Société*—marked the idea of voluntary participation.

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regular meetings of their statesmen and experts, nations would be persuaded to act together for the maintenance of peace and for the commonweal. In fact, a number of international agreements were adopted, as the result of conferences convened by the departments of the League. The International Hell was paved with good conventions.

Yet in the first ten years of its activity, the League realised some of the hopes of the founders. It served, in spite of some shocks, to maintain world peace, and it made substantial progress with the instruments of world co-operation. The second ten years of its life, however, were a period of steady decline and disillusion. From the beginning, it had suffered a fatal weakness and disappointment through the defection of the U.S.A., whose President had been one of the authors of the Covenant. The American electorate went back to its isolationism immediately after the war; and the Senate's refusal to adopt the Covenant rotted the heart of the Democracies. The attitude of the U.S.A., and to a less extent of Great Britain, about collective security has been compared to that of people living in a village with petrol stores, refusing to have a fire brigade. They would put out their own fire, but nobody else's. The U.S.A. was unwilling to assume the active responsibility of a world Power, except at the Washington Conference in 1921, in dealing with naval armament. The original members of the League excluded, too, the Soviet Union, which they feared as a subversive power; and they excluded, for almost the whole of the first decade, defeated Germany. The League in its early years was, then, primarily a league of victors, minus one principal ally; and the victors had no great faith in their instrument. The world spirit was trying to conquer the national flesh, but had a hard struggle, because of the reluctance of the principal members of the League to curtail the absolute independence of the sovereign State. The idealists who fashioned the League were reactionary; they looked back to the ideals of the nineteenth century in both political and economic relations, and did not conceive the revolutionary change which was required for international government.

In order to compensate or atone for her failure to enter the League of Nations, the United States took the lead in an effort which was ironically called the "outlawry of war." The declaration known as the Kellogg Pact, after the American Secretary of State, was originally in the form of a Treaty between the U.S.A. and France, but was adopted in 1928 by almost all the States of the world. The nations repudiated war as an instrument of

national policy, and pledged themselves to seek a settlement ~~of~~ any difficulties by peaceful means. But no sanction was provided for a breach of the pledge; no office was established to implement it, and in fact nothing was done to make it effective. It was "an international kiss, purely platonic, promising nothing for the future." The Pact exorcised war by words, but the spell would not work when the Devil (the Axis Powers) challenged. The first signature was that of the German Reich President.

One of the provisions of the Covenant, which was designed to bring about the main purpose, to end war, was an undertaking to arrange a general reduction of national armament. Germany had been disarmed by commissions of the Allied nations; and the intent was that Germany should precede general disarmament. Something was done in this direction as regards naval forces by the Washington Conference of 1921, at which all the nations concerned in the Pacific region agreed to a substantial reduction of their navies. But as regards land and air forces, the European members of the League were slow to carry out the policy. Owing to the withdrawal of the United States, France was fearful of her position in relation to her eastern neighbour, so often her enemy, with nearly twice her population. She had little faith in the readiness of her fellow members of the League to honour their undertaking, and unite their forces against the aggressor. She sought to assure her security by alliances with States that feared Germany, and by a treaty of guarantee against aggression, the Locarno Pact, to which Great Britain subscribed. After long preliminaries, the Disarmament Conference did at last meet at Geneva in 1932: but it was attended mainly by experts of the armed forces of the nations, like a group of butchers attending a vegetarian conference.

It was an inopportune moment; for the year before it met Japan had definitely challenged the League by her aggression in China. She refused to have regard for the recommendations of the Commission appointed, in accordance with the Covenant, to report on the causes of the trouble and recommend a solution. The elaborate provisions for collective security in order to maintain peace would not work, once a Great Power took the law into its own hands. Germany too, though outwardly disarmed, was a growing cause for anxiety. She on her part was indignant that, though admitted to the League and a permanent member of the Council, she was not treated as an equal in the disarmament negotiations. The other Powers feared that she was secretly conspiring to rearm, and they no longer had armies of occupation to prevent it. The total result of the Disarmament

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Conference was 14,000 pages of reports, and no reduction in armed forces of any country by a single gun.

A year after the breakdown of the Disarmament effort, the League suffered another equally disastrous failure, when it tried to deal with the economic crisis that afflicted the whole world. Only international co-operation in economic matters could retrieve the desperate plight of most of the nations, which had been brought about by the destruction of the world war and the barriers of economic nationalism erected after the war. But, again, the statesmen and the members of the League had not the courage to pool their resources for each other's help. It is said that the Peace was lost because of the lack of charity of the nations to each other. Each Government sought in the economic blizzard to protect its own country against instability by raising tariff walls. They would not realise that, if they did not hang together, they would hang separately. The result was the homoeopathic aggravation of the disease. "The whole mechanism of international intercourse was jammed and fractured . . . there was a mechanism for commercial warfare."¹

In place of international co-operation, each nation resorted to higher tariffs, to quotas of imports and exports, to devaluation of currency as a competitive instrument. The result was that international trade was reduced by more than half, and in the principal industrial countries of the world a plague of unemployment, such as has never been known, ravaged the social and economic life. The experts of the League diagnosed accurately enough the nature of the disease, and advised appropriate measures. But the national statesmen, who were under no obligation to take their advice, listened and did the opposite. A world Economic Conference which was convened in London in the summer of 1933, in order to bring about some international co-operation, was a complete fiasco.

Following the failures of the Disarmament Conference and the Economic Conference came a series of direct blows against the security system of the League. First, at the end of 1933, Germany's withdrawal from the League, and her declaration of rearmament; then, in 1935, Italian aggression against Ethiopia, a member of the League, which was met by half-hearted application of economic sanctions in accordance with the Covenant. The sanctions were calculated to cause inconvenience enough to rouse the passions of Italy, but not enough to be effective against her aggression. The Soviet's accession to the League in 1934

¹ *Transition from war to peace economy. League of Nations Report, 1943*, quoted in Arnold-Forster's *Charters of the Peace*, p. 70.

was not enough to bring fresh life and will. Then came German reoccupation of the Rhineland in 1936, in defiance of the Locarno Pact; and, in answer to it, the registration of protests by the League. In the same year, the intervention of Italy and Germany for help of the Fascists in the Spanish Civil War, and in reply, more protests of the League. In 1938, a year of terror, the Nazi aggression against Austria and Czechoslovakia; and in reply, more revolutions revealing the impotence of the League as a whole, and appeasement of the aggressor by its principal members.

After 1938 and Munich, international action to achieve peace and security, and to promote co-operation, ceased to be within the field of vision. The result was to encourage in the Dictator States the ideology of force, which seemed to pay. It was a further weakness of the League that in its social and economic activity it had not been able to give any stability to the individual; and in the dissatisfied States the feeling of insignificance and impotence of the common man led him to seek salvation in the authority of the National Dictator.

In the last year before the war, the League was a body with a fine residence at Geneva, which had been completed and beautified, but without a soul. It had too much church for its faith. The fabric of the League as a political instrument for preserving peace crashed, and Europe was once more plunged into war. Again it was proved, very quickly, that war, like peace, is indivisible, and neutrality was, as President Roosevelt called it, an unconscionable evil.

The Second World War began just twenty-five years after the outbreak of the First World War. The League of Nations was not dissolved, but it was an empty shell. The one section which maintained some life was the International Labour Office. That remained at Geneva for the first "phoney" period of the war, and was later removed overseas to Montreal; while the Economic section was moved to Princeton. The Palaces at Geneva were occupied by caretakers and a few statisticians. It was strange, and, as it turned out, a bitter irony, that the last meeting of the League Assembly, held in 1940, voted for the expulsion of the Soviet Union from the League because of the aggression on Finland. The Soviet representatives at the League were the champions of collective security, insisting that peace and war were indivisible. They were listened to with cynical contempt; but when the Soviet Union, foreseeing aggression against herself, took measures to strengthen her frontier, at the expense of Finland, the members of the League in righteous indignation

declared her unworthy of remaining a member of their society. The memory of that expulsion has remained a factor in Russian international relations.

Yet, if the League was moribund after 1940, statesmen of the United Nations recognised more clearly that a world society and a world organisation were the essential conditions of peace. And the English-speaking peoples, the British Commonwealth and the United States of America, who had taken the lead in formulating the Covenant of the League, took the lead, during the second year of the war, in framing the Charter which laid down certain common principles in the national policies of their countries on which they based their hopes for a better future of the world. That is the Atlantic Charter, drawn up on a man-of-war in an unnamed spot on the ocean by the President of the U.S.A. and the Prime Minister of the U.K. in the summer of 1941.

The Charter is not a Covenant, and it is not a legal document. It is a very preliminary statement of very preliminary principles, very general in its wording, designed as a promise rather than a fulfilment; a challenge and not an answer. It contains just over 300 words; and you cannot settle the world problems as briefly as that. But it gives the principles.

The announcement of these common aims was made before America entered the war as an Ally. The English-speaking Powers recognised a common outlook for the future, and their declaration was soon adopted by all the United Nations, including the Soviet Union, as a basis of their war aims. The purpose of the Charter was not to supersede the purposes of the League of Nations. It was contemplated at the time that the League would be revived and revised, as an instrument for maintaining peace between the nations and developing international co-operation. But the Charter adds social and economic principles to the political principles and political machinery. There must be international instruments, not only for keeping political peace, but also for securing a fair distribution of the resources of the earth to all peoples, and economic and social well-being for nations. President Roosevelt had declared that all men in all lands should live out their lives in "freedom from fear and freedom from want," and the Charter was designed to embody that assurance.

A Greek philosopher said that war is a forcible teacher. The Second World War hammered in lessons which should have been learned after the First. Mankind has been living since 1918 through a social revolution, the first world revolution of history.

The revolution was obvious enough in the Union of Soviet Socialist Republics and in the fascist States of Germany and Italy. But it needed a second world conflict to bring it home to the Democratic States. The war too brought it home that it is possible to pool the resources of States for a common enterprise without piling up unpayable masses of debt; and the Atlantic Charter contemplates a new positive activity of the nations in helping each other to secure economic and social well-being, as well as to take steps internally for the social and economic well-being of their citizens. In England, during the crisis of the war, remarkable reform was undertaken of the social services. Measures were prepared to ensure social security and to get rid of the giant spectre of unemployment.

During the latter years of the war, a series of conferences of the United Nations made plans for international co-operation in tasks of reconstruction. They were held in the cities or sylvan resorts of the United States. There was the conference at Atlantic City which brought into being the United Nations Relief and Rehabilitation Administration, to deal with the immediate post-war miseries. There was the conference at Hot Springs, which formulated a common policy on nutrition, to secure freedom from hunger for all peoples. There was the conference at Bretton Woods, which was concerned with the financial relations of world society, and drew up plans for an international monetary fund, and an international bank. There was the conference of Chicago, which tackled, not very effectively, plans for an international organisation of civil air transport. Lastly, there was the conference of Dumbarton Oaks, limited to the official representatives of four big Powers, the United Kingdom, United States of America, U.S.S.R., and China, which drew up a plan for a World Organisation. The plan was designed primarily as a scheme for maintaining international peace, and it profited by the lessons of the failure of the League to repose power for enforcing the peace in the big States. At an earlier conference held at Moscow in October, 1943, the Big Four declared that "they recognised the necessity of establishing at the earliest possible date a general International Organisation based upon the sovereign equality of, and the membership of, all peace-loving States." Two months later, when the President of the United States, the Prime Minister of the United Kingdom, and the Prime Minister and Generalissimo of the Soviet Union met at Teheran, they issued a further Declaration. The peace "should banish the scourge and terror of war for many generations." For the solution of the problem, "they will seek the co-operation

and active participation of all the nations large and small, whose peoples in heart and mind are dedicated to the elimination of tyranny, slavery, oppression and intolerance . . . and welcome them as they may choose to come into the world family of democratic nations."

The repetition of these bright promises became almost wearisome. What was not unanimous, and what was more pertinent to a new order of world security, was the relation of the big Powers to each other and to the whole society. If they were not agreed about measures to be taken to ensure world peace and to combat any threat of it, would the voice of the majority prevail? That question was unsolved by the officials at the Conference of Dumbarton Oaks. It was examined by the heads of the three States in the Crimea early in 1945, when the invasion of Germany was about to be launched. The head of the Soviet Union held out for the right of veto of any of the Great Powers against coercive action. Measures to enforce peace and to apply pressure against any State threatening another could be taken only if the big Powers who were represented on the Security Council agreed. With that reservation, the conference of the United Nations assembled at San Francisco in April, 1945, in order to draw up a Constitution for a world society which would replace the Covenant of the League. The outcome of its work was the Charter of the United Nations.

CHAPTER II

THE ATLANTIC CHARTER AND MUTUAL AID TREATIES (LEND-LEASE)

THE ATLANTIC CHARTER WAS published—it is said, perhaps in joke, that it was not signed—by Mr. Churchill and President Roosevelt on behalf of their respective countries. Mr. Churchill described it as “a simple rough-and-ready wartime statement of the goal towards which the Governments mean to make their way.” It is not, then, a statement of peace aims, but rather an indication of the direction of the New Order after the war. President Roosevelt made it clear that its name does not imply any geographical limitation. Its principles apply to the whole world. It lays down eight principles which, omitting qualifying words and phrases that are not unimportant, may be summarised as follows:

1. No aggrandisement, territorial or otherwise.
2. No territorial changes that do not accord with the freely-expressed wishes of the peoples concerned.
3. Respect for the right of all peoples to choose the form of Government under which they will live, and the wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.
4. The endeavour to further the enjoyment by all States, great or small, victor or vanquished, of access on equal terms to the trade and to the raw materials of the world which are needed for their economic prosperity.
5. The fullest collaboration between all nations in the economic field, in order to secure for all improved standards of labour and social security.
6. Following the destruction of Nazi tyranny, a peace which will afford to all nations an assurance of dwelling in safety within their own boundaries, and that all men in all lands may live out their lives in freedom from fear and freedom from want.
7. The right of all men to traverse the high seas without hindrance.
8. This is the one long Article. It starts with the declaration that all nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force.

Then, stating that peace cannot be maintained if armaments continue to be employed by nations which threaten aggression it lays down that, pending the establishment of a more permanent system of general security, disarmament of the aggressor nations shall be carried out. Thereafter measures will be taken to lighten for peace-loving peoples the crushing burden of armaments.

Like other evangelists, the Atlantic Charter has been subjected to many interpretations. It is a mistake to treat it as a legal instrument which is capable of exact definition, and imposes binding obligations. Rather is it a promise of the democratic countries for united effort to establish a better future for the free peoples. At a time of crisis, with the greater part of Europe crushed under the heel of the *Herrenvolk*, and menaced with the new order of serfdom, the Charter held out to the common man, as well as to the remnant of the oppressed nations engaged in the struggle, the hope of a world society based on economic and political freedom and mutual aid. Subsequent conferences, and the declarations and charters which issued from them, give flesh and blood to the skeleton. Yet, while no verbal commentary on the Charter is called for, it is worth while to examine each of the eight principles in turn.

1. The first reaffirms one of the fourteen points of the peace programme at the end of the First World War, which repudiated all idea of annexation of territory. It seems to go further, because it rejects aggrandisement that is not territorial. That does not indeed involve a return of all the territory of the States which existed before the war or before Nazi aggression started. Nor does it preclude, as it has been interpreted, the acquisition by the victorious Great Powers of territory which they regard as necessary for their own security and for their part in maintaining world peace. President Truman made it clear, when he proposed the ratification of the Charter of the United Nations, that the United States had the full intention of obtaining bases in the Pacific which she regarded as essential for her interests. The Soviet Union, too, which adhered to the principles of the Atlantic Charter, has already carried out sweeping changes of territory along her western frontier; and the States which are in her orbit, particularly Poland and Yugoslavia, have made far-reaching claims for new frontiers in order to assure their security.

The broad principles, then, of no aggrandisement and "no territorial changes that do not accord with the freely expressed wishes of the peoples," have been, in fact, considerably whittled away, in relation not only to the enemy countries, but to those

which are counted among the United Nations. Restitution, which might fairly be regarded as limiting the general principle, is interpreted very liberally. It includes territorial compensation for a country deprived of part of its former territory in order to reinforce the needs of national security of another State.

2. The second principle was limited by subsequent declaration to the territories of the United Nations. It had no application to enemy States. The wishes of the German people are not to be regarded in the future destiny of Germany. As regards Italian colonies and the former Mandated territories of Japan, which were German colonies before the First World War, the Charter of the United Nations again makes a fresh disposition, which is considered in a later chapter.

3. The principle that people shall choose the form of government under which they shall live is likewise limited to the United Nations. The conference at Potsdam in 1945, which dealt with the Government in Germany, emphasises that the form of Government which the Nazis had established in Germany shall be extirpated. The German people should have no freedom of choice in that matter. The Soviet Union, too, has made it clear that for her security she must have at her border governments that are in accord with the principles of her socialist State.

4. The clause with regard to sovereign rights calls for some limiting interpretation. It has been erroneously taken to mean that each nation could do what was right in its own eyes without regard to the interest and well-being of other States. That notion is inconsistent with the idea of a world society in which co-operation and mutual aid are the guiding principles. The word "sovereign" has had an unfortunate history, and an unfortunate influence in modern times. After the Reformation and the Renaissance, when the unity of Western Christendom was broken up, and the supreme authority of the Pope as the spiritual head was rejected, the rulers of States claimed to be absolute sovereigns over everybody and everything in their territory. When the Nation-State became the norm of the international society after the French Revolution, the idea of sovereignty was transferred from the ruler to the State itself in relation to the other States. Just as the king is declared to be above the law in his country, and can do no wrong, so it was suggested that the king in his relation to other kings, and ultimately the State in relation to other States, was above the law. In theory, rulers and States were bound by a law of nations which was derived from the Law of Nature—that is, principles of reason and humanity which were found in the Bible, Roman law and other sources of the kind.

But in practice, when conflicting claims arose between rulers and States, they rejected the principles of law and would resort to force. To make war was regarded as the ultimate right of the sovereign State. It is an axiom of a world society that all its members should be governed by law; for, as the old maxim has it, where there is a society, there must be a rule or law. That is as true of the society of States as of the national society or of a club or trade union. Sovereign rights, then, which are to be restored to the peoples, mean no more than national independence in internal matters. Moreover, some limit must be placed on the sovereignty of the State over its citizens, if the fundamental freedoms of the individual—freedom of opinion, freedom of religion, freedom from fear, freedom from want—are to be fulfilled.

5. Paragraphs 4 and 5 of the Charter introduce a novel trend in international relations: that it is the duty of the nations as of individuals to “love thy neighbour as thyself.” The nations in the first part of the nineteenth century recognised that greater freedom of trade would bring blessings to all peoples. The removal of Customs barriers and tariffs was the road to peace and prosperity. That policy might seem to be justified to the British people, which had a long start in industrial development, but it was soon doubted and repudiated by other nations of Europe and America. Tariff protection, which is a form of economic nationalism, seemed to be forced upon the governments in order to save their peoples from exploitation and ruin by the action of other States. So the vicious circle was started; and it was in no way corrected after the First World War, in spite of the professions of co-operation. The bitter experience of universal unemployment, which was one of the principal factors in the surrender of free peoples to totalitarian and tyrannical regimentation, taught the error of national egotism. Economic well-being is as indivisible as peace and war. Prosperity or decline in one country brings prosperity or decline in the whole.

Great Britain and the U.S.A. undertook in the Charter to give the example of helping other nations to secure access to the raw materials of the world, which are largely in their areas, and of furthering economic advancement and social security for all peoples. It is true that the undertaking is limited by words “with due regard to their existing obligations.” For Great Britain that means the economic agreements of Imperial Preference between her and the other members of the British Commonwealth. The arrangements made in Ottawa in 1932, at the height of the world economic crisis, provided for a protective system

between the British self-governing peoples. Similarly, the tariff system of the U.S.A. was designed to protect American industrial enterprise, suffering in the world depression, against the economic competition of Europe. These barriers, however, cannot be maintained if a sincere endeavour is made to give access on equal terms to the trade and raw materials of the world, and to bring about economic advancement and social security for all.

6. The sixth principle envisages a world structure which will stand against the two great evils of our age: war on the one hand, and penury and unemployment on the other. The instruments by which these objectives are to be pursued internationally are the Security Council and the Economic and Social Council, to be established under the Charter of the United Nations. At the same time, the national governments must each pursue the object of social security for their own people. That has been done in England signally in the last years by the policy of social insurance, which is associated with Beveridge.

7. The seventh principle, commonly described as the freedom of the seas, has been a traditional American policy in her international relations. It has exact meaning only in relation to war, for the freedom of the high seas to all States in peace has been a recognised rule of international law since the seventeenth century. In the past, however, international law has accorded to belligerent Powers definite rights of interfering with the passage of the ships and the commerce of neutral States. When neutrality was a recognised and normal status, the United States championed the cause of neutrals, and restricted those belligerent rights, visit and search, contraband and blockade. During the first years of the First World War, she stood against the British full assertion of the belligerent claims and the German assertion of fresh terrors of submarine warfare. She finally entered the war on the side of Great Britain and France against the Central European Powers because of the German outrage of unrestricted submarine warfare, which hit alike neutrals and enemies. She then pressed to the utmost herself those belligerent rights against a few remaining neutrals. But in the World Order which is contemplated there should be no further war, and if measures short of war are taken on behalf of the world society against a State threatening the general peace, the rupture of intercourse by land and sea is one of the lawful measures which the Charter of the United Nations prescribes.

The principle might be interpreted to have regard to the proposal, which has been made during the war, that ports of vital strategic and commercial importance, such as Gibraltar,

commanding the entrance to the Mediterranean, Aden, commanding the entrance to the Indian Ocean, Singapore, commanding the entrance to the China Seas, should be placed under some international authority. And one of the subjects to be brought before the United Nations Organisation is the regulation of international waterways, such as the Dardanelles. The clause might also be argued more daringly to imply a fresh principle, that all men should be free to traverse the high seas, and emigrate to countries overseas. Yet it is unlikely that either the President of the United States or the Prime Minister of Great Britain, in adopting the principle, had any intention of the kind. Freedom of immigration is not accorded, or contemplated in Great Britain, the British Commonwealth of Nations or the United States of America. Nor is there any indication in any subsequent declaration or Charter that this application of the principle of freedom is to be granted.

8. The last point is an assertion in fresh terms of one of the main and unfulfilled ideas of the League of Nations: the abandonment of the use of force to settle international disputes, and the disarmament or the reduction of armaments of the nations to that end. The Article of the Charter lays down as a first and necessary step the disarmament of the aggressor states after this Second World War. That follows the provision in the peace treaties made after the First World War with regard to the disarmament of the vanquished States. Notable is the reference to spiritual as well as realistic reasons. Spiritual motives have hitherto had too small a part in international relations, while the world will not be safe for democracy or any other form of government until the moral ideas, which are recognised in the relations between individuals, are respected in the relations between States, and until the idea that humanity is one penetrates the mind of statesmen and peoples. The realistic reasons for the abandonment of force have been terribly reinforced since the Atlantic Charter was signed. They might have seemed strong enough before the outbreak of the war, when the power of destruction from the air was already apparent. They are overwhelmingly strong at the end of the war, when the flying bomb and finally the atomic bomb have proved man's power by machines of his creation to destroy mankind.

Mutual Aid Treaties

The first definite effort to give expression to the principles of the Atlantic Charter in the conduct of nations was made when

the United States of America entered the war at the end of 1941. In January, 1942, the four principal allies, the U.S.A., the United Kingdom, the U.S.S.R. and China, together with the members of the British Commonwealth, the European nations and the Central American nations which were leagued together, adopted the programme of principles embodied in the Charter. A month later, a Treaty was made between the U.S.A. and the U.K. defining principles of mutual aid for the prosecution of the war against aggression. That was an agreement concerning a system which was already being applied, and was popularly known as "Lend-Lease." While still neutral, the President of the U.S.A. obtained an agreement from Congress to the supply of munitions of war to Great Britain, not on the normal terms of purchase and sale, but on the terms of loaning and leasing without payment. He had convinced his people that the defence of the United Kingdom against Nazi aggression was vital to the defence of the United States of America, and therefore America should extend to the United Kingdom the fullest measure of aid in war without cash payment.

During the First World War America piled up an immense bill against Great Britain for supplies to the British and Allied peoples fighting against Germany. Even when the U.S.A. came into the war as a belligerent, she continued to charge her allies for the munitions and foodstuffs. That crushing burden of war debts could never be paid off by the victorious but impoverished Allies in Europe to their victorious and wealthy creditor ally. They were scaled down, but even the residue was beyond their limits of payment, and the residuary debt was a cancer in the relations between America and Europe till the outbreak of the second world conflict.

In the first year of the war, the old system was maintained. Great Britain was able to obtain supplies from America in large quantities, but was required to pay cash, and used up her credits. The point came when, left to face the Axis alone, she had no longer the means to pay. A new relation, something like international communism, "from each according to his capacity: to each according to his need," was adopted as between allies. It was applied to all the States fighting the Axis Powers. The system of "Lend-Lease" was completed by what is called "Reverse Lend-Lease"—that is, provision and services rendered to the American forces by the members of the United Nations. The ultimate way of dealing with the credit and debit has not yet been clearly defined, but the treaty lays down a broad principle. "In the final determination of the benefits to be provided

to the U.S.A. by the Government of the U.K. in return for aid furnished under the Act, the terms and conditions shall be such as not to burden commerce between the two countries, but to promote mutually advantageous economic relations. To that end, they shall include provision for agreed action, directed to the expansion of production, employment and the exchange and consumption of goods which are the material foundations of the welfare of all peoples." That article is a signal for a policy of free, or at least freer, trade between all nations. It mentions also the elimination of all forms of discriminatory treatment in international commerce, and the reduction of tariffs and other trade barriers. It indicates that this new policy of mutual aid between the nations, initiated in war and for the purposes of war, is designed to further the attempt at world-wide economic progress set out in the Atlantic Charter. How this generous purpose is to be carried out in generous action, is a task left to governments in the light of economic conditions. The Mutual Aid Treaty between the U.K. and U.S.A. is a master model of agreements made between the U.S.A. and all the other members of the United Nations. It is to be borne in mind that, while much has been supplied in the terms of "Lend-Lease," much was supplied on the old basis of the cash nexus. Great Britain has a great burden to carry also of blocked sterling balances which have been accumulated in favour of India, the British Dominions, and the Colonies, by reason of their supplies; and America has the benefit of vast dollar balances with which she is credited in many of the Allied States. She has, too, the benefit, of having built up a vast export surplus at the very time when Great Britain, in order to make the greatest possible contribution with her man-power to the war effort, was reducing export trade.

It came, then, as a sudden and heavy blow when the Government of the U.S.A. announced, immediately after the end of the war with Japan, that the Lend-Lease system was at once ended, and all outstanding contracts under it were cancelled. All stocks and deliveries procured by Britain and other Allies from America must be paid for either in cash or credit arrangements to be negotiated. It is confidently hoped that on this occasion the readjustment of the economic systems of the world, after the chaos of war, will not be hampered by maintaining burdens of international indebtedness which those States who bore the first brunt of battle for civilisation cannot see their way to discharge. Co-operation and prosperity, national and international, will depend upon the establishment of regular commercial exchanges; and world-wide trade, such as the Atlantic Charter contemplates,

will be attained only if the principles of Lend-Lease continue to be regarded, even if the specific practices of the "grand swap" have to be modified. The United States, now that she has stopped supplies on a Lend-Lease basis, may find it to her interest to enable us to turn towards free multilateral trade by continuing to supply us from her surplus, till we are able to stand by ourselves.

CHAPTER III

INTERNATIONAL FUNCTIONAL ORGANISATIONS

IT IS A CHARACTERISTIC of our time to form institutions, national and international, for a specific function. This is the age of functional architecture, i.e. buildings designed essentially for their purpose; and it is the age also of functional conferences, councils and organisations. In the failure to obtain agreement on an international political structure which will replace national sovereignties, and the failure to adopt broad ethical principles in the relations of States and peoples, the advance towards an organic international society is made by a series of limited organisations, each with its special purpose. It is a pragmatic approach, moving step by step from action and experience. Social interdependence is more and more pervasive and perceptible; and if it is organised, the expectation is that political interdependence will be acknowledged.

By collaborating together for particular common interests, the nations should get together for general ends. It was one of the main aspects of the League to foster national co-operation for specific and technical concerns. The treaties of peace, which incorporated the Covenant of the League, included also the Charter of Labour and the constitution of the International Labour Office. The League formed a series of technical departments of the Secretariat at Geneva which organised the nations for combined action about such interests as health, control of opium and noxious drugs, and refugees. And these social and humanitarian activities of the League organs were pursued more effectively than the political activities of the Council and the Assembly which aimed at maintaining peace and security.

The principles which inspired the Atlantic Charter require an expansion of these activities. The nations are to collaborate with the object of securing for all improved labour standards, economic advancement and social security. The first steps towards a new world structure were in fact taken by the formation of international bodies for functional co-operation. The International Labour Organisation, which was the most important of these bodies in the League, maintained its activity during

the war; and in the earlier period of the struggle it was marked as the instrument for preparing plans for a new world order. Subsequently that important part in reconstruction was not confirmed, probably because the Soviet Union, though actively interested in the I.L.O. at one period, was expelled from it in 1940, and consequently bore it no affection. But the Organisation calls for notice because its main object is the welfare of the common man, the worker in the full sense of the term, and because also it is likely that it will remain one organ in the reconstruction.

International Labour Office

It was during the First World War that the idea of an international office to secure better social and working conditions in all countries took practical shape. When the plan of the League was adopted, it was laid down that all countries which were members of the League should automatically become members of the Labour Organisation. The Constitution, however, of the two bodies was different. While the Conference, the Governing Body and the Office corresponded in their general function with the Assembly, the Council and the Secretariat of the League, they had one fundamental distinction. Not only governments, but employers and workers were represented on them. The two government delegates of the Conference were accompanied by one employer and one worker, chosen as national representatives in consultation with the principal national unions of employers and workers. Likewise, on the Governing Body or Executive Committee there were sixteen government delegates, eight employer and eight worker members. The business of the Conference was to formulate conventions and recommendations to improve working conditions throughout the world, about matters such as the employment of children and of women, social insurance, industrial health, forced labour, working conditions of seamen. But the law was not enacted by decisions of the Conference; if adopted by a two-thirds majority, the convention was submitted to each of the member States, who were required to consider whether they would ratify or reject it and then adopt it in their national legislation. During the period between the two wars, the organisation formulated something like a labour code. The guiding principle was that peace must be founded on social justice; and conditions of labour which involved hardship and privation would produce unrest that imperilled peace and good order.

The Office, transferred in 1940 from Geneva to Montreal,

continued its studies, and its annual review of labour conditions. Though conferences were suspended in 1942 and 1943, the Governing Body convened in 1944 at Philadelphia a conference of special significance at which over forty countries were represented. The first business was to define afresh the plans and function of the I.L.O. by a Declaration which, while repeating the main principles of the Labour Charter of 1919, amplified them, and added to them. One of the added principles was that the promotion of full employment was a national duty. That was in accord with the social movement in Great Britain and other democratic nations. It was recognised that the fulfilment of the purposes in the Atlantic Charter—improved labour standards and social security for all peoples—requires a powerful international instrument; and the Foreign Secretary of the British Government, addressing the Governing Body of the I.L.O. in 1943, contemplated that it should be the instrument “through which, by consultation of governments, managements and operatives, a comprehensive programme of labour and industrial reconstruction can be worked out.”

The Declaration reaffirmed four fundamental axioms:

- (a) Labour is not a commodity.
- (b) Freedom of expression and association are essential to progress.
- (c) Poverty anywhere constitutes a danger to prosperity everywhere.
- (d) The war against want must be carried on with unrelenting vigour by each nation, and by continuous international effort, in which representatives of workers and employers enjoy equal status with those of governments, and join with them in free discussion and democratic decisions. A specific programme which the Organisation is to further after the war includes: (a) Full employment and the raising of standards of living. (b) The provision of facilities for training and the transfer of labour, including emigration for employment and settlement. (c) Policies in regard to wages and earnings, . . . which will ensure a just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection. (d) The assurance of equality of educational and vocational opportunity.

The Conference affirmed that the principles are fully applicable to all peoples everywhere, and that, “while the manner of their application must be determined with due regard to the stage of social and economic development reached by such people, their progressive application to peoples who are still dependent . . . is a matter of concern to the civilized world.” The Inter-

national Labour Organisation has stated its objects definitely. The attainment of the objects may not be easy, particularly as its status in the new order is not altogether clear.

Food and Agricultural Organisation

The first of the new organizations created during the war was concerned immediately with Nutrition. It was the outcome of the Conference of the United Nations on food and agriculture, held at Hot Springs in 1943. During the declining days of the League, nutrition was clutched at as a positive purpose in which the nations could co-operate; but nothing was done except to collect reports and statistics. One of the lessons of war, in England and elsewhere, was that Government action could secure adequate distribution of reduced supplies of the nation for the common good. And popular interest in nutrition questions was stirred. Freedom from want, in its most elementary sense, implies freedom from starvation or malnutrition. An immense effort is necessary to attain it in the world. More than three-quarters of the peoples of Asia and Africa have not the necessary sustenance for a healthy life; and not a small proportion of the population of the most advanced countries, like Great Britain and the U.S.A., lack that sustenance. There has never been enough food for the health of all people, while our knowledge and Nature are sufficient to provide it. It requires imagination and firm will on the part of each Government and people to make use of the knowledge. And that has been lacking.

The first cause of hunger and malnutrition is poverty. There must be an expansion of the world economy to provide the purchasing power which could enable the peoples to obtain an adequate diet. That again depends upon full employment in all countries, enlarged industrial production, an increasing flow of trade within and between countries, orderly management of domestic and international investment, and sustained internal and international economic equilibrium. Lastly, if the primary responsibility lies with each nation for seeing that its own people have the food needed for life and health, each nation can fully achieve that end only if all work together. That is a summary of the conclusions of the Conference, which resolved to establish a permanent organisation to be a centre of opinion and advice. Immediately it appointed a commission in Washington to draw up a detailed plan for submission to the governments.

It is notable that one of the earliest international institutions was established, before the First World War, in Rome by an

American idealist of Russian extraction, to do research and spread information about agricultural production all over the world. That institution will now be supplemented by a world organisation which will not only deal with improvement of production, but will work out plans for the better distribution of food and agricultural products, and particularly for bettering the condition of rural populations who comprise two thirds of the world's inhabitants. The Constitution of the Food and Agricultural Organisation (now adopted) provides for a conference, in which each member nation will be represented by one member, an Executive Committee of nine to fifteen members, to be appointed by the conference, and a Director-General appointed also by the conference with a technical staff. The first Conference was held at Quebec in October 1945. The purposes are to raise the level of nutrition and standards of living of the peoples; and to contribute towards an expanding world economy by furthering separate and collective action. The work will be advisory rather than executive; it is to promote national and international action with respect to (a) research relating to nutrition, food and agriculture; (b) the improvement of education and administration relating to these things; (c) the conservation of natural resources; (d) the improvement of the processing, marketing and distribution of food; (e) the adoption of policies for adequate agricultural credit. It is to "marry" agriculture and food.

The Interim Commission has worked out a world plan to provide food for all on a health standard. The devastation of war and its aftermath have made that task desperately urgent. At the preliminary conference in 1943, it was said: "During the period of critical shortage in the aftermath of war, freedom from hunger can be achieved only by urgent and concerted efforts to economise consumption, to increase supplies, and distribute them to the best advantage." The destruction during the last two years of towns, industries and transport has reinforced that warning.

United Nations Relief and Rehabilitation Administration (U.N.R.R.A.)

The first practical attempt to apply the principles of mutual responsibility was the Relief and Rehabilitation Administration of the United Nations, which was formed in November, 1943. The main purpose of the Administration is "to plan, co-ordinate, administer or arrange for the administration of measures for the relief of the victims of war, through the provision of food, fuel, clothing, and other basic necessities, medical and other essential

services." It had been recognised much earlier in the war that the United Nations would be faced with a stark problem of relief for suffering humanity, which was unparalleled. Millions—indeed, tens of millions—of the peoples of Europe, Asia and Africa were uprooted and despoiled, their property destroyed, while their country was ravaged and its communications ruined. The simplest needs could only be met by combined action of the great nations. Hopes were high that the international co-operation would be adequate, immediately upon the liberation of the countries, to render to the population the aid and relief from their sufferings, to prevent pestilence, to arrange for the return of displaced persons and exiles to their homes, and to assist in the resumption of agricultural and industrial production and the restoration of essential services. The hope has been bitterly disappointed, partly by the immensity of the problem, greater than was then foreseen, partly by the circumstances of military occupation, partly by the unexpected revival of national jealousies against international action, even when it was directed to material succour. Yet U.N.R.R.A. has come into being and into activity. Its members include all the United Nations, those who can contribute, and those who have suffered. The Council consists of one representative of each government; a Central Committee of representatives of what were the four Big Powers. The Director-General, who controls the machine, is an American and the staff is international. All the countries agree to contribute annually 1 per cent. of their national income, but the experience of the first year of relief and rehabilitation in Europe proved the inadequacy of that income, and a further contribution will have to be made.

U.N.R.R.A. is limited to the immediate rehabilitation—that is, the first steps required for the resumption of material, financial and economic life, sowing the land, equipping industry, and seeing to the transit of goods. Its mission and its purpose do not extend to mere permanent reconstruction. In great measure, its work has been in administering relief and sending back from Central Europe to their countries millions of "displaced" men, women and children, who were torn from their homes for the purpose of serf labour by the Nazis. It is also concerned with the finding of new homes for the hard core of "displaced persons"—a strange euphemism—who have no fatherland to which to return, either because they are stateless, or because they are unwilling to live under the new régime of their former State. In this work it is assisted by an older international body, the Inter-governmental Committee for Refugees. Before the war the Nazis had

driven from their country a mass of their citizens, for political and racial reasons, and these waifs and strays of humanity, homeless and helpless, were a grave international problem. President Roosevelt convened an International Conference at Evian in 1938, to consider measures for their settlement; and that led to the formation of the permanent Inter-governmental Committee. When war interrupted its activity, it had prepared plans, but had advanced little towards execution. To-day it is faced with a much greater task for the hundreds of thousands, possibly more, who cannot be restored to the lands which they left.

International Monetary Fund and International Bank for Reconstruction and Development

After the chaos of the Second World War, which is immeasurably greater than the ruin of Europe after the first, the reconstruction of a workable world economy is one of the foremost tasks to be faced. The monetary and financial conference of the United Nations, which was held in the summer of 1944 at Bretton Woods, was a first international effort to this end. One of the central problems of the international monetary organisation is to ensure that the production and international exchange of goods are not impeded by currency difficulties. In the long run there must be a balance between the payments abroad and the receipts from abroad of each country. If that balance is temporarily upset, the country must borrow enough foreign exchange to tide it over the difficulty.

Before the First World War nearly all countries accepted the gold standard; and owing to the great share of Britain in the world's total trade during the nineteenth century, a very large part of that trade was financed by bills drawn on London houses in terms of the pound sterling. The bill on London then fulfilled in a large part the functions of an international currency. That happy state of things could not be restored after the First World War. America had become a centre of bank business, and was gradually absorbing the greater part of the world's gold. Great Britain made a big effort to keep to the gold standard; but in 1931 she had to abandon it and devalue her currency. One after the other, the nations took that step; and the manipulation of currency in order to promote exports and restrict import trade, and the control of foreign exchange by the State in many countries were amongst the factors that aggravated the economic blizzard of the 'thirties. During the war currencies and exchange

everywhere have been controlled, and there has been no free market. At the same time, there has been a staggering destruction of property and a staggering expenditure of national capital. Great Britain, in particular, in spite of the help of Lend-Lease, has had to sell the greater part of her foreign investments. Instead of being a creditor nation, she has become a debtor nation on a vast scale. It is estimated that the blocked balances of sterling which represent her indebtedness to countries in the sterling area alone, and must be liquidated, amount to three and a half billion pounds. At the same time she is anxious to get back to the conditions of free exchange and multi-lateral trade. That is at least as strongly a desire of the U.S.A., which is the other principal trading nation.

It was the purpose of the Bretton Woods Conference, in which most of the United Nations took part, to devise a scheme of international action which will get rid of controlled exchange, maintain an international monetary system, and promote foreign trade. They proposed to set up for that purpose an International Bank for Reconstruction and an International Monetary Fund to which all the States would contribute according to their income. The Fund would be used to help each other to overcome short-term exchange difficulties. The Agreement, which is highly technical, has not yet been adopted by Great Britain and the United States, the two principal Powers concerned. It contemplates the maintenance of exchange control by a State for a further period of five years; as a compromise between the American desire for immediate return to free exchange, and the need of Britain and other impoverished nations for a transitional period of control. For normal conditions an international fund of \$8,800,000,000, is to be created, and each nation pays its quota, 25 per cent. in gold, and the balance in its own currency. Each currency is assigned a parity expressed in terms of gold or the American dollar; and each member of the Fund—as the organ is called—shall not propose a change of the value of its currency, except to correct a fundamental disequilibrium. In that case, it will consult and notify the Fund, which will raise no objections to a change of 10 per cent. A request may be made for a further 10 per cent. change; and that will be approved or disapproved. The Fund will be managed by a Board of Governors, composed of a representative of each member, serving for five years and meeting annually. An Executive Directorate of twelve members will be in continuous session. Decisions will be made by majority vote; but a change of quotas will require a majority of 80 per cent., and certain other decisions will require a three-quarter

or two-thirds majority. The fate of the Fund is still in the balance. But it seems clear that for world economic recovery Britain and the U.S.A. must act in collaboration.

The other agreement of Bretton Woods, concerning the formation of an International Bank for reconstruction and development, is less controversial. Ten years after the end of the last war, it was found necessary to establish a Bank for International Settlements, with its seat at Basle, particularly with a view to manage the German and other reparations. The Bank, which had as its directors representatives of the principal countries of the League, though it was never made an instrument of the League, served to co-ordinate to some extent the central banks of the member countries. But its functions remained limited, and it did not play any useful part in helping the distressed countries during the period of economic collapse. The aim of the new International Bank is more ambitious. It is essentially a long-term credit institution, with the purpose of providing capital for financing sound projects which for various reasons cannot obtain funds in the regular capital market at a reasonable interest. Its main operation is to guarantee loans issued in the regular market. It is a co-operative undertaking. Each member of the monetary fund must be a member of the Bank, and will subscribe a share of the capital based similarly on its resources. The contribution of the U.S.A. will be one-third of the original capital, which is fixed at \$9,100,000,000, and may be increased to \$10,000,000,000 if neutral States come in. The contribution of the United Kingdom has been fixed at \$1,300 million; of the U.S.S.R. at \$1,200, France \$450, China \$600 million. The Bank will not finance relief; it is essentially for reconstruction. The voting power of the members will be proportionate to their subscription, and the organisation and management will be fixed in a similar way to that of the Fund. The Bank and Fund are bound up together, and any member which withdraws from the Fund will automatically cease to be a member of the Bank unless a three-fourths majority of all the members agrees otherwise.

The Fund and the Bank will be parts of an international co-operative effort to restore the economic structure. The international monetary system will not work smoothly unless international investment is planned and controlled by an international authority. Both the American and British Governments have recognised the need for a system of control of international investment. Both have recognised also that economic stability and the maintenance of international trade depend

primarily on the ability of the countries to maintain prosperity and full employment at home. The agreement of Bretton Woods, then, if and when it is ratified, is to be regarded as a first step of international collaboration in the economic field. It will be for the Economic and Social Council of the United Nations, together with the specialised agencies, to design the full plan.

Civil Aviation Organisation

The Conference on civil aviation held at Chicago in December, 1944, showed a division of outlook between the U.S.A. and the United Kingdom similar in its nature to the difference of view about the monetary policy, and more difficult to adjust. The Americans insisted on the maximum freedom of the air, being in far the strongest position in the resources of air transport. The United Kingdom and the British Dominions stood out for international planning and regulation. In this Conference the U.S.S.R. took no part, on the ground that Spain, Portugal and Switzerland, three neutral States with which she had no relations, were invited.

It was common ground that civil aviation must be regulated internationally. A Convention of 1919 provided that every Power has complete and exclusive sovereignty over the air-space above its territory. And in 1929 an amendment of the Convention gave every State authority to grant or refuse the establishment of international airways and the creation of international air navigation lines, with or without landing on its territory. Till the war, the right of aircraft to travel over any country had to be secured by unilateral grant or bilateral arrangements. Certain international regulations were adopted but there was no freedom of the air comparable with the freedom of the high seas.

At the Chicago Conference, four plans for international regulation were presented, from the U.S.A., the United Kingdom, Canada, and Australia-with-New-Zealand. The Americans pressed for the fullest opportunity for civil aircraft to serve all countries. They demanded five freedoms: (1) of peaceful transit, (2) of non-traffic stop (to refuel, repair or refuge); (3) to take traffic from the homeland to any country; (4) to bring traffic from any country to the homeland; and, finally (5) to pick up and discharge traffic at intermediate points on a route traversing a number of States. Australia and New Zealand, at the opposite extreme, put forward a project for the complete internationalising of civil aviation: one world airways responsible to a world authority. Great Britain proposed a mean way. She was prepared

to facilitate American and British enterprise on international routes, and to grant the four first freedoms of the American programme, but not the fifth. She wished to retain within the Commonwealth certain services for her own lines, and to vest in an international authority the power of rationing international services.

No final agreement could be reached between the divergent views, and the establishment of a definite international aviation authority has been adjourned. Great Britain approaches the question from the point of view of order; the United States from the point of view of freedom. Two conventions embodying the different standpoints were adopted, and are open for signature by the States which prefer one or the other. The Air Transit Agreement, sponsored by the British, provides that each contracting State grants to the others two freedoms in respect of the international air services: to fly across its territory without landing, and to land for non-traffic purposes. The Air Transport Agreement, sponsored by America, provides for the grant by each contracting State to the others of the five freedoms.

Unanimous agreement was obtained upon the international licensing of aircraft, international rules of air navigation and transport, and international standards and procedures. Agreement also was reached on the constitution—in due course—of an international air organisation with an Assembly, a Council composed of twenty-one members elected by the Assembly, and an Air Navigation Commission appointed by the Council. A provisional organisation, with an Interim Council, has been established at Montreal. It will operate for not more than three years, and will exercise technical and advisory functions. It will be superseded by the Civil Aviation Organisation when the Powers have come to a final agreement.

Thus, over a wide field of human endeavour, touching the life of the peoples and of the common man, international organisation and international regulation have been rapidly advancing during the years of the war. That is the preparation for the overall World Organisation in the era which is beginning. There will be no lack of material for the bodies created by the Charter to work upon, if they have the will.

Educational and Cultural Organisation

Among the forms of international co-operation which the Economic and Social Council is directed to encourage is educational and cultural activity. The material needs of the United

Nations have had precedence in time over the intellectual. It was not till August, 1945, after the publication of the Charter of the United Nations, that a draft constitution was published for an international cultural organisation, and it was announced that a conference of representatives of the United Nations would be held in London in November. During the war, indeed, the Allied Ministers of Education who were in London regularly met for matters of common concern. Their conferences prepared the way; and the United States, which had no part in them, later took the lead in urging a permanent body. The main purposes of the projected organisation are stated as: (1) to develop mutual understanding and appreciation of the life and culture, the arts, humanities and sciences of the peoples of the world, as a basis for effective international organisation and world peace, and (2) to co-operate in extending and making available to all peoples the world's full body of knowledge and culture, and in assuring its contribution to economic stability, political security and general well-being. These large purposes will mean much or little according to the will, not only of governments, but of the academic and educational bodies, the teachers and the students among the peoples.

The lack of educational preparation among the masses of the people concerning a world society was one of the fatal weaknesses of the League of Nations. The League of Nations Union in this country spread some understanding, but had no adequate part in the educational system of the country. And the League "was backed more by sentiment than by intelligent understanding." It included an organisation of intellectual co-operation, of which Professor Gilbert Murray was once the Head. The organisation had a permanent Institute at Paris, which was created through the cultural generosity of France, but was starved by most other States. It was helpful in organising the exchange of students and professors, circulating knowledge about libraries and museums, arranging international study conferences, and, to a limited extent, supervising the content of national history and geography books. But these were frills, and did not touch the heart of the problem; to make the common man understand the elements of a world society. It has been said that the most dangerous form of government is an uneducated democracy; and the same idea applies to international government. The peoples and not the governments can give substance to international co-operation.

The conference will consist of representatives of all the United Nations. One of the principal questions in issue is the method of

appointment of the representatives. It is agreed that non-governmental bodies and interests should participate, but the extent of their participation is not agreed. One proposal is that three out of the five members of the delegation shall be selected in accord with a national co-operating commission representing academic bodies, teachers and the like. Another proposal is that the three members shall be chosen directly by the commission.

It is to be hoped that the cultural organisation will not be, like its predecessor, the Cinderella of the world society. The experience of the war has been valuable for the wide spread of education in current affairs to millions in the Forces, and for the opportunity it has given to millions of men and women to see countries and something of the life of other peoples. It should be the task of the international organisation to strengthen and enlarge that foundation, promote an international auxiliary language and build up in every country an international ethos, a sense of loyalty to the larger society—a world citizenship.

PROJECT OF DUMBARTON OAKS

AT THE MOSCOW CONFERENCE of the heads of the Great Powers (1943), it was decided that steps should be taken to establish a general international organisation to maintain world peace and foster international co-operation. All peace-loving Powers should be members, and the basis of the Organisation should be the sovereign equality of the nations. The test of peace-loving was found later in the declaration of war against the Nazis before a certain date; the condition of *sovereign equality* meant that there should be no attempt to establish a super-State. Nor were the nations of the world yet ready for federation. The intention was to carry on the functions of the League of Nations, but by a better instrument. In the autumn of 1944 high officials of the United Kingdom, the U.S.A., the U.S.S.R., and China met at Dumbarton Oaks to draft a plan, and as a result of their conversations drew up tentative proposals. Those proposals were published, for comment and criticism, were the subject of study by the United Nations, and served as a basis of discussion for the full conference held at San Francisco in 1945.

The Charter is the final outcome of the effort; and in many respects it amplifies, not only in detail, but in substance, the proposals of the small official body. Yet the framework of the Charter was erected at the earlier gathering, and it is pertinent, therefore, to examine the main conclusions. A word should be said as to the title of the Organisation, "the United Nations." While it was open to objection as limiting the agreement to the Allies in the war—and excluding all neutrals—it was intended to mark the common effort of nations which had saved civilisation and the belief that the close union would continue in the future.

The statement opens with two chapters defining the purposes and principles, which follow generally the scheme of the Covenant, but are more explicit. They are in the nature of Declarations, moral and idealistic, while the rest of the project is a Constitution, realistic and practical. The purposes are:

- (1) "To maintain international peace and security, and to that end take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression; and to bring about by peaceful means

adjustment and settlement of international disputes which may lead to a breach of the peace; (2) to develop friendly relations among nations, and to take other appropriate measures to strengthen universal peace; (3) to achieve international co-operation in the solution of international, economic, social and other humanitarian problems; (4) to afford a centre for harmonising the actions of nations in the achievement of these common ends.”

The *Principles*, which members of the Organisation must accept as binding rules of conduct, are:

(1) The Organisation is based on the principle of the sovereign equality of all its members.

(2) All members undertake to fulfil the obligations assumed by them in accordance with the Charter.

(3) All members shall settle their disputes by peaceful means.

(4) All members shall refrain in their international relations from the threat or use of force. In the Charter itself words are added: “against the territorial integrity or political independence of any State.”

(5) All members shall give every assistance to the Organisation in any action undertaken by it in accordance with the Charter, and refrain from giving assistance to any State against which preventive or enforcement action is made by the Organisation.

(6) The Organisation will ensure that States which are not members act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

The principle of sovereign equality is open to the objection to the time-dishonoured concept “sovereignty,” which has been analysed above. It is obvious that all States which become members of the Organisation must give up a portion of their sovereignty, in the sense of acting as they please, because they bind themselves to accept the principles and obligations of the Charter. As to equality, what is stressed is equality before the law, which is proper, and not equality of authority, which is unreal. Every State has, too, an equal right to the maintenance of its political independence and territorial integrity; though the guarantee of these as they were issued by the Covenant of the League is not continued. But it is a feature of the project, and of the Charter based on it, to have regard to the superior authority and responsibility of the Great Powers for maintaining the peace. The old conception of a Concert of Europe is transformed into a Concert of the World.

Though the smaller States were inclined to protest against this hegemony of the Great Powers, it was pointed out that not only had the Great Powers the responsibility and the means of keeping the peace, but their united peoples represented more than half the world's population. It had been one of the weaknesses of the League of Nations that the Great Powers were not saddled with the clear responsibility for maintaining collective security; and when the challenge came, in fact repudiated it. In the Project the responsibility is placed fairly and squarely on a small Council in which they dominate. The aim is stated: "to ensure prompt and effective action by the United Nations."

The pivot of the plan and of the Charter based on it is the Security Council, which, as its name indicates, is concerned solely with the maintenance of international peace and security. In the New Order it takes the place of the Council of the League in the old. It has on the one hand more restricted functions, and on the other more powerful and more available means of action to enforce its will. The two principal purposes of world organisation, assuring peace and fostering co-operation for mutual benefit, are separated. The former is entrusted to a small executive body, the latter to the larger and more representative Assembly. The emphasis is laid on the primary purpose, to prevent war anywhere, and to prevent a situation leading to war by continual vigilance and by putting overwhelming force behind the responsible body. It is recognised, indeed, that peace depends not only on the measures to prevent war, the negative sanction; but on the positive factors, common activities of States for the ends announced in the Atlantic Charter. So, parallel with the Security Council, and as an instrument of the Assembly, an Economic and Social Council is established to co-ordinate the functional organisations and to foster co-operation in economic, social and humanitarian causes.

The Security Council, however, remains the constant and commanding organ. It is said expressly that it should be so organised as to be able to function continuously; it may investigate at any time any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace. The Council is composed of representatives of five Great Powers—France was added to the four sponsors—which have permanent seats, and representatives of six other Powers elected by the Assembly for a period of two years. At the San Francisco Conference an addition was made to the article about composition of the Council. In electing

the six non-permanent members, the Assembly "shall have regard in the first instance to the contribution of the different members to the maintenance of international peace and security," as well as to equitable geographical distribution. The clause is designed to give a certain preference to the Allied Powers who took an important part in the war; but all the non-permanent members are in a definite status of subordination as regards their voting power. A majority of seven is required for decisions of the Council, but in important matters the seven votes must include all of the "Big Five." It is a return to the original design of the Covenant, by which the Great Powers were to be a majority on the Council and exercise hegemony. The design was marred by the defection of the U.S.A. and the pressure of the middle and smaller Powers, who in the end prevailed in numbers and had the same power of vetoing decisions.

Each nation represented on the Council will have a permanent representative at Headquarters. It was the practice at Geneva for many, but not the major, States to keep permanent delegations. Now there is to be a kind of Cabinet, a permanent element of international Government, as well as a Secretariat, which will study the acute questions, and have its finger on the pulse. The centre of the Organisation should be the effective political capital of the world. When all members of the Security Council maintain delegations there, the majority of other members of the Organisation will follow suit.

The Assembly of the League under the Covenant could share the police functions with the Council and, in fact, did so after 1932. Not so in the project of the United Nations. Once the Council is seized of a question and proposes action, the Assembly goes out of the picture except that it will receive a report from the Council. All members of the Organisation undertake to accept the decisions of the Security Council and carry them out. That applies to the Great Powers as well as to the others. The Council may call on all members to apply specific sanctions, diplomatic, economic, social or military; and there is no longer any question, as there was in the League, of a member State deciding what measures it should take. It may call on them also to comply with preliminary measures, to avoid an aggravation of the situation.

Further, the international Cabinet will have a defence staff, or military staff committee, to advise and assist it in all questions relating to military requirements for maintaining peace and order, to the employment and command of the forces at its disposal and the regulation of armament. The composition of the committee

is fixed. It will include the Chiefs of Staff of the five permanent members of the Council; and the principal military authorities of other members of the Organisation will be associated with it, whenever the efficient discharge of the committee's responsibilities requires it. All members of the Organisation, and not only members of the Council, undertake to make available specific armed forces as well as facilities and other assistance; and their preparedness is to be assured immediately by agreements made with the Council. It was provided subsequently in the Charter that the Security Council may invite any member State to send a representative to its meetings, if it considers the interest of that State to be involved when enforcement measures are taken. Every member State must give a right of passage across its territory to military forces acting on behalf of the United Nations. It is inherent in the New Order that the old conception of neutrality disappears.

Assuming that air power will be the principal police force, national air contingents will be held ready for combined international enforcement action. Plans for their combined action will be worked out by the Council with the military staffs. Here is improvement, at least in plan, on the League system, which left to the moment of crisis the organisation of the combined national forces to coerce an aggressor. The world organisation, it is said, will now have teeth; and if they are not organic teeth, so to say, but a denture which may not always fit exactly, at least it has some power of biting.

The critical question, which the officials at Dumbarton Oaks could not resolve, but later the heads of their States at Yalta attempted to resolve, was the voting arrangement in the Security Council. The Soviet Union claimed that the permanent members of the Council must be unanimous on any enforcement act, which meant that each of them should preserve a veto without qualification, even if their own conduct was in issue. The claim roused misgivings equally in leading persons of the other Great Powers and among the smaller Powers. It seemed, and is indubitably, a denial of the rule of law; but realistically it came to be recognised that, if peace is to be assured, the Great Powers who stood together as allies in the war must hold together in the World Organisation. They cannot coerce one another. It is pointless to reproach the British and American Governments for the veto. Russia is more sceptical than the Western democracies of the rule of law and the judicial settlement of international disputes. After her experience over thirty years of "other States ganging up against her," she is concerned above all things with her

security, and will not let that be decided by a court or a majority vote of the Council.

It is stated in the official British commentary on the Charter: "If a Great Power refuses to accept the judgment concurred in by all the other Great Powers, not parties to the dispute, and at least three other members of the Security Council, and resolves to defy the public opinion of the world which the judgment would express, it is impossible to predict the outcome or to lay down rules as to what ought to be done. But the creation of the United Nations is designed to prevent such a situation from arising, by free acceptance by the Great Powers of restraints upon themselves, which would make such action impossible, and by creating a forum, where their actions can be discussed and examined with a view to obtaining unanimous decisions." The veto question was raised again acutely at San Francisco; and the Conference finally agreed on a procedure which is included in the Charter and is explained later. The requirement of unanimity among the permanent members of the Security Council in action for the enforcement of peace safeguards their peculiar position as arbiters. With that unanimity and with the support of at least two other members of the Council, they may require territorial changes if they are found necessary for peace.

The Assembly is the popular and representative organ, "the town-meeting of the world". It is on the one hand the forum at which all world questions may be discussed, and on the other it directs the constructive activities of those many organisations created for specific purposes. A progressive change from the system of the League of Nations is the procedure of voting. Important decisions of the Assembly are taken by a two-thirds majority: others by a simple majority. There is little danger that the vital interests of the State will be prejudiced by allowing a majority to prevail in social, economic and similar matters.

No attempt was made in the Dumbarton Oaks plan to be complete. The proposals for the functions of the Economic and Social Council were very sketchy, though the composition of the Council was fixed, and no privilege in it was stipulated for the Great Powers. The Statute of the International Court of Justice is not touched, though the maintenance of such a court is made integral to the plan. Nothing is said about colonies and dependent territories, though it was known that that was a major interest of several States. It was notable also that the project was not embroidered with fine words. Thus it was severely pragmatic, and perhaps none the worse for that.

The plan of the United Nations is, by the nature of its con-

ception, not universal. But other States may be admitted subsequently. No right of withdrawal for a member is given, such as crippled the League. Nothing was stipulated in the matter; but powers of suspension and expulsion of recalcitrant members, at the instance of the Security Council and on a vote of the Assembly, are inserted. On the other hand, no State is compelled to belong to the world society. Yet the advantages of membership are so obvious that there is a strong inducement for every State to comply with the conditions. The defeated enemy States are, however, to be excluded for a long period.

It was said of the League of Nations that it represented the maximum of international co-operation obtainable at any time. Of the United Nations Organisation it may be claimed that it represents the maximum of *international government* obtainable immediately.

THE CHARTER OF THE UNITED NATIONS

THE CONFERENCE OF THE UNITED NATIONS, which was to determine the constitution of the International Organisation, met at San Francisco from April to June, 1945. It took as a basis of its deliberations the project of Dumbarton Oaks, and hundreds of amendments which had been proposed. It was a considerably larger body than the many Councils of the Allies which had met previously for war purposes. For many States in Asia, Africa and America qualified as "peace-loving" by declaring war against the Nazis opportunely, in order to be numbered in the United Nations. Among them were Turkey, the Arab States, Egypt, and, last of all, Argentina. Europe had a relatively small proportion of the fifty. The largest geographical element came from Central and South America, which together gave twenty delegations. Nine independent Asiatic nations and three African were represented. The British Commonwealth of Nations, including India, gave a block of six. Originally there were only eight European States; but the Soviet Union added two by obtaining separate representation for the Ukrainian Republic and the White Russian Republic; and Denmark was invited during the proceedings. The neutrals, Switzerland, Sweden, Spain, Portugal and Ireland, and the former enemies, Italy, Rumania, Hungary, Bulgaria, and Finland, were ineligible. The small European band was a significant token of the decline of a continent which for centuries had dominated world affairs.

Preamble and Principles

The Charter, which was adopted in the end unanimously and without reservations, is the outcome of long debate between the representatives of the Big Five Powers, and the representatives of the smaller forty-five. It adds some rooms, some decoration and a façade to the architectural plan of Dumbarton Oaks. But the main structure of the preliminary conference stands. The Charter bears to it the relation of a half-finished building to a steel and concrete skeleton. In the forefront is a preamble, the work of Field-Marshal Smuts, who had presented a project for the League of Nations in 1919. It expresses the moral ideas of the Charter:

"We, the Peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

"To reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of Nations large and small; and

"To establish conditions under which justice and respect for the obligations arising from Treaties and other sources of international law can be maintained, and

"To promote social progress and better standards of life in larger freedom,

"And for these ends to practise tolerance and live together in peace with one another as good neighbours, and

"To unite our strength to maintain international peace and security, and

"To ensure by the acceptance of principles and the institution of methods that armed force shall not be used save in the common interest, and

"To employ international machinery for the promotion of the economic and social advancement of all peoples,

"Have resolved to combine our efforts to accomplish these aims."

The democratic note is boldly assumed in making it the peoples'—not the Governments' Charter, influenced no doubt by the opening words of the Constitution of the U.S.—and in reaffirming faith in fundamental human rights. In the statement of purposes and principles which follows, and reproduces, with little change, the statement of Dumbarton Oaks, the insistence on human rights and the assertion of regard for justice and international law, about which the officials' blue-print was silent, are notable. The Common Man, and not only the impersonal State, is at last to be a subject of the law. In Article 1 of the purposes, the adjustment of international disputes is to be made in conformity with the principles of justice and international law. Again, international co-operation is to be achieved "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." In the *Principles*, which are the rules of conduct accepted by all the United Nations, the members undertake to settle their disputes by peaceful means, in such manner that international peace and security, *and justice*, are not in danger.

One addition to the Principles adopted at Dumbarton Oaks

is significant. It is a limitation on the authority of the International Organisation in all its activities, designed to preserve the internal sovereignty of each of the members. "Nothing," it is said, "shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State, or shall require the members to submit such matters to settlement; but this shall not prejudice the application of enforcement measures." Matters within the domestic jurisdiction of the State include social policy; and the clause would restrict the powers of the Economic and Social Council to make recommendations. In the project of Dumbarton Oaks, a similar limitation was inserted in the section dealing with settlement of disputes by the Security Council. It excluded disputes arising out of matters "which *by international law are solely within the domestic jurisdiction of the State concerned.*" The limitations in both cases are indefinite. Matters, which have hitherto been regarded as essentially or solely within the domestic jurisdiction, are calculated to lead to international friction, and threaten world peace. When they do that, they will engage the attention of the international bodies. A striking example is the brutal treatment of its own subjects by the State, such as was practised by the Nazi and Fascist governments, and led to the international problems of refugees. Again, the restrictive immigration policy of the United States and the British Dominions, in the period between the two wars, aggravated conditions in Europe. The frontiers of international law are not fixed. They are constantly moving, like the frontiers of the United States in the nineteenth century. In the development of a world order matters, which were in the past solely within the domestic jurisdiction, will become matters of international concern and therefore properly considered by the Organisation. The denial to the citizen of human rights is one of them, seeing that the aim of the International Organisation is to encourage respect for human rights and fundamental freedoms.

The last words of the Principles imply that, where any of these matters has given rise to an international dispute, or a threat to the peace, the Security Council will be entitled to intervene and call for a change of the national policy. Australia was responsible for the insertion of the clause in the Principles, and presumably she was moved by her anxiety about her sovereign control of immigration. Yet just because domestic jurisdiction in such a cause is calculated to produce international strain, the paramount authority of the World Organisation may have to be exercised.

Membership

Chapter Two of the Charter deals with membership. In addition to the original members who signed the Charter at San Francisco and ratify it, or who signed the Declaration of the United Nations of January, 1942, membership is open "to all other peace-loving States which accept the obligations and, *in the judgment of the Organisation*, are able and willing to carry them out." Admission of any State will be effected by a decision of the Assembly, upon the recommendation of the Security Council. At the meeting of Heads of the three Great Powers at Potsdam in the summer of 1945, it was stated that those Governments would support applications from States which remained neutral during the war; but would not favour an application by the present Spanish Government, "which, having been founded with the support of the Axis Powers, does not in view of its origin, its nature, its record and its close association with the aggressor States, possess the qualifications necessary to justify membership." Power is given to suspend a member against which preventive or enforcement action has been taken by the Security Council; and to expel a member which has persistently violated the principles of the Charter. Either action must be taken by the Assembly on the recommendation of the Council.

General Assembly and Security Council

The principal organs are—a General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, and Secretariat. The third and fourth organs were added as principal instruments to the scheme of Dumbarton Oaks. The Trusteeship Council and the International Court are dealt with separately: the functions and composition of the Security Council have already been examined. Here the functions of the Assembly and the Economic and Social Council must be specially described. As in the League of Nations, the Assembly is a world forum. It may discuss any questions or any matters within the scope of the Charter, or relating to the powers and functions of any organs provided for in the Charter; and, particularly, any questions relating to the maintenance of international peace and security brought before it, whether by a member or by the Security Council, or by a State which is not a member. It may make recommendations with regard to such questions to the States concerned or the Security Council, or both. As a deliberative and recommending body it has full powers. And its annual session will have the character of an

international parliament. The delegation of each State, which was limited to three in the League, may be increased to five, to allow for a larger choice, including, maybe, members of the opposition party. It will offer the best sounding-board in the world. What is reserved for the Security Council is *action*, directed in the first place to bring about peaceful settlement by agreement, and if that fails, to enforce a settlement.

The Assembly is a body for forming opinion, for discussion and advice; the Council is the executive and the embryo of a government. While the Assembly is not entrusted expressly with legislative power, it is to initiate studies and make recommendations for encouraging the progressive development of international law and its codification. That task was attempted, without much success, by the League of Nations. The greater flexibility of the constitution of the United Nations, and particularly the power to decide by majority, may render the task of the Assembly more fruitful in this field. The Assembly is directed also to assist in the realisation of human rights and fundamental freedoms for all. It was hoped that the San Francisco Conference would formulate an *International Bill of Rights*, defining fundamental freedoms of the individual. The subject, however, proved too critical for settlement straightway. But the Economic and Social Council, which is an organ of the Assembly, is directed to set up a commission for the promotion of human rights; and will undertake that task.

Another duty of the Assembly is to consider and approve the budget of the Organisation, including the budgets of the special agencies. The expenses of the Organisation will be borne by the members on an apportionment made by the Assembly. A similar function was exercised by the Assembly of the League; and an elaborate formula of apportionment was worked out between the States, having regard to their population, their national income, etc. But the League finances were among the unsatisfactory features of the old system. Many members were constantly in arrears with their contribution; and no express sanction was provided for failure to pay. The Charter prescribes that a member which is in arrears for two years shall have no vote unless the Assembly is satisfied that failure to pay is due to conditions beyond the control of the member. The total budget of the League annually was very much less than the cost to Britain alone of a single day of the war. The budget of the new Organisation must be considerably greater than that of the old; but the Nations will have learnt by experience the need of regarding as a first charge the maintenance of the world-organs for peace and co-operation.

To what has been said in the previous chapter about the Security Council little need be added. The question of voting procedure, which was not settled at Dumbarton Oaks, is resolved in the Charter. (Article 27):

- “(1) Each member of the Council shall have one vote.
- “(2) Decisions of the Council on procedural matters shall be made by an affirmative vote of seven members.
- “(3) Decisions of the Council on all other matters shall be made by an affirmative vote of seven members, including the concurring votes of the permanent members, provided that, in decisions (dealing with settlement of disputes), a party to a dispute shall abstain from voting.” That applies to the big Powers as well as the others.

Procedural matters include the full discussion and consideration of any situation brought before the Security Council. None of the permanent members can prevent the examination of a dispute or of a situation which threatens the peace. On the other hand, the Conference, in interpreting the voting formula reached at the Yalta Conference of the Great Powers, held that the concurrence of the Five was necessary from the moment when the Council decides to make an investigation, or determines that the time has come to call upon States to settle their differences or make recommendations to the parties. Unanimity of the permanent members applies to such decisions and actions, with the proviso for abstention from voting by parties to a dispute. Unanimity is required also for any enforcement action; and then the proviso for abstention does not apply to the Great Powers. For reasons already set out, action cannot be enforced against one of the Great Powers by the rest of the Council. The veto, which is thus vested in the permanent members, is not indeed a new right which they did not enjoy in the League Council. In that body the right of veto was exercised by any Power, great or small.

It is stressed that the Council can make a recommendation at *any time* as to the settlement of any dispute; and the parties themselves undertake to seek a solution, first of all, by negotiation, arbitration, judicial settlement, resort to regional agencies, or other peaceful means of their choice. So far as machinery can help, the Charter provides for peaceful settlement, and failing that, for enforced settlement without war, provided the Great Powers agree. In the last resort it puts all the force of the society at the disposal of its executive Council.

Regional Arrangements

Provision is made also for regional arrangements or agencies to deal with matters relating to the maintenance of peace and security. A regional body is composed of several States united either geographically, or by common conceptions of Government, and working together for functions which affect them all. Several regional agencies already exist. All the American States are bound together in the Pan-American movement, which, like the League of Nations, has its Conference, Council, Judicial Organ and Secretariat. Shortly before the San Francisco Conference was convened, the peoples of the Americas adopted, at a conference in Mexico City, a Declaration of Reciprocal Assistance and American Solidarity (Act of Chapultepec). In the Middle East, the League of Arab States was constituted in 1945 with a view to common action for the preservation of peace. Plans have been mooted for the formation of a Regional authority on a Federal basis in Europe itself; but so far the hopes of Pan-Europa, or of the Federal Union of Europe, have not been fulfilled. They may have more chance if Western Europe elects Socialist Governments. And smaller federations of States with common economic interests may be more easily formed. Plans again have been made for the formation of a Pacific Regional Authority, but are still to be realised.

The Charter prescribes that the Security Council and its military staff may utilise regional arrangements or agencies for enforcement action under their authority. But no action is to be taken in this way without authorisation, except against former enemy States. The members of the United Nations, whether organised in a region or separately, are permitted to take measures against a renewal of aggressive policy by those States. At the same time, they may call on the Security Council to undertake the responsibility for preventing aggression.

The Economic and Social Council

The Economic and Social Council is essentially the organ for constructive and co-operative purposes which are vital for a peaceful order. The sketch of Dumbarton Oaks about it is filled in and becomes more of a picture. What is contemplated is continuous social action, internationally as well as nationally. Among the aims of the United Nations are the promotion of “(a) higher standards of living, full employment, and conditions of economic and social progress and development; (b) solutions of international economic, social, health and related problems;

and international cultural co-operation; and (c) universal respect for, and observance of, human rights and fundamental freedoms for all." The Economic and Social Council, like the Security Council, should be continuously in action. For it will deal with all these matters.

The Council will consist of eighteen members elected by the Assembly. Six will be elected each year, and will hold office for three years. Unlike members of the Security Council, they may be immediately re-elected. No priority is given to the Great Powers, and all decisions will be made by a simple majority. The Council may invite any member of the United Nations to take part in its discussion of a matter of particular concern to that State. The Council, too, may make recommendations with respect to any matter in its scope to a member of the United Nations, as well as to the General Assembly and to the specialised agencies concerned. But it has no coercive powers.

The new organ is to co-ordinate the work of the specialised agencies established by agreement between the governments. The functional bodies must direct their efforts to the common end. Some of them, which have been created since the war, are described in Chapter III. Some existed in the League system, and will now be fitted into the Organisation, e.g. the International Labour Office, the Health Organisation and the Economic Section of the League. Others existed before the League, such as the International Bureaux for Postal Services, Patents and Copyright. Contrary to the original expectation, they were not integrated into the League, but they may be brought into closer relation with the United Nations.

Hitherto the international agencies for common action in matters of economic and social well-being have pursued their programmes independently. The Council will harmonise their policies and activities and may initiate the creation of new specialised agencies for which need is shown. It is charged with the duty of forming a body to promote individual human rights. The proposal is that the fundamental freedoms, commonly known as the Rights of Man, will be guaranteed by the International Society, and not only by national constitutions, which in the last age of Totalitarian States have proved a broken reed or a Leviathan.

In the system of the League provision was made by treaties for the protection of the rights of racial, religious, and linguistic minorities by the new or enlarged European States, and for the assurance to them of equal citizenship and cultural autonomy. Those rights were placed under the protection of the Council

of the League; but, as events proved, the protection was very imperfect, and in the second decade between the wars was entirely ineffective. No attempt has been made in the Charter to renew the special trusteeship for the rights of minorities. It has seemed better to enlarge the international guarantee so as to cover the rights of all individuals, whether of the majority in the State or of a minority people. The rights and liberties of all will become a subject of international law, and will be in the guardianship of the General Assembly. The method of protection has still to be defined.

The Council is directed also to prepare Conventions for submission to the General Assembly with respect to matters in its competence. The League was responsible for many international conventions drawn up by special conferences on such subjects as health, communications, waterways. This activity in the future will be concentrated through the Economic and Social Council. International law grows primarily through such Conventions.

The Secretariat

In an imperfect governmental organisation, such as is proposed by the Charter of the United Nations, the position and authority of the Secretary-General are of outstanding importance. He and his staff are the permanent elements in a constantly shifting society made up of conferences, councils, boards and committees. The history of the League of Nations abundantly illustrated that axiom. The Secretariat was the "residuary legatee of the powers which flowed into Geneva."¹ Much depended on the original Secretary-General of the League and the original Director-General of the International Labour Office. They were minded to give the maximum effect to the idea of international government. The Covenant of the League said nothing about the functions of the Secretariat, except that the Secretary-General should act in that capacity at all meetings of the Assembly and the Council. He should be appointed by the Council with the approval of the majority of the Assembly; and he should appoint the other secretaries and staff, with the approval of the Council. The Charter is more explicit. The Secretary-General will be appointed by the Assembly, upon the recommendation of the Security Council, and will be the chief administrative officer of the Organisation, and make an annual report to the General Assembly on its work. He shall act in his capacity at all meetings of the Assembly, Security Council, Economic and

¹ Zimmern, *The League of Nations and the Rule of Law*, Macmillan, 1939.

Social Council and Trusteeship Council, and shall perform the functions which are entrusted to him by these organs. He is the lynch-pin of the wheel.

A fresh power is added. He may bring to the attention of the Security Council any matter which, in his opinion, may threaten the maintenance of international peace and security. Thus he acquires a commanding status. For it is possible that no State in the Council will be willing to raise a thorny question between members of the Organisation, and the initiative will fall to the permanent highest official. Nothing is said in the Charter about the term of office of the Secretary-General. The sponsoring Powers proposed that it should be three years, with a power of re-election. That proposal, however, evoked a difference of view; and the matter was left to agreement between the Security Council and the General Assembly. The concurring votes of the permanent members of the Council will be required in any decision. They will be required also for the recommendation, that goes from the Security Council to the Assembly, of the candidate for the office.

Another amendment proposed by the sponsoring Powers about the Secretariat provided for the election of four Deputy Secretaries-General for a term of three years by the General Assembly, upon the recommendation of the Security Council. That proposal also was not acceptable, because the other Powers apprehended that it contemplated the election of one of its nationals to the highest posts by each of the permanent members of the Security Council. It was agreed finally that no provision should be inserted concerning the Deputies; and that question is left for a tussle when the Organisation is set up.

As to the staff, the experience of the League has influenced the authors of the Charter. It is laid down that in the performance of their duties the staff shall not seek or receive instructions from any government, or from any other authority outside the Organisation. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organisation. On their side, the members of the United Nations will respect the exclusively international character of the responsibilities of the Secretary-General and the staff, and not seek to influence them (Article 100). The aim is to form a truly international civil service. In the early days of the League, the Heads of Departments—men like De Madariaga, Sir Arthur Salter, Professor Rappard—had that quality.

In higher offices of the League staff Great Britain and France had a dominant part. The United States, the Soviet Union and

China will expect to have a number of their nationals among the officers; and a just claim will be made by the peoples of Asia and Africa and South America to be represented. It may be hoped, however, that national interference with the higher offices, which weakened the League in its second decade, will be avoided. The Charter lays down that the paramount consideration in the employment of the staff and the conditions of service shall be the necessity of securing the highest standard of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting on as wide a geographical basis as possible. The question, which was constantly debated at Geneva, whether senior appointments should be made for longer or shorter periods, is not settled.

The Secretary-General is, on the one hand, the secretary of the international cabinet, and, on the other, the head of a vast administration. The League Secretariat included nearly a thousand officials; and the Organisation of the United Nations, which includes the new Councils and other specialised organs, will require a much larger number. The Secretariat should be an international leaven, which will gradually affect the States from which they are drawn with a sense of the world society and world interests.

Miscellaneous Provisions

The final chapters of the Charter contain miscellaneous provisions, and a section dealing with amendments. Following an article of the Covenant of the League, every treaty and international agreement entered into by a member of the United Nations is to be registered with the Secretariat, and published by it. No party to any such treaty which has not been registered may invoke it before any organ of the United Nations. In the event of a conflict between obligations of members under the Charter and obligations under any other international agreement, the former shall prevail. That provision should dispose of any questions that might arise about, e.g., the Monroe Doctrine in America, or the effect of any treaties of alliance which remain in force.

Amendments of the Charter

The delegates at San Francisco recognised that their construction was provisional and should be tested by experience of collaboration. The system of the Charter may be regarded as a stage in world government for convalescents recovering from the terrible disorders of the world. And President Truman in his

address at the conclusion of the Conference stressed that it was only a first step. The misgivings which were entertained by the smaller forty-five nations about the veto of the five Great Powers on any action of the Security Council, and any apprehensions which still exist between the Great Powers themselves, may be dissipated. By working together in peace, as they have in war, mutual confidence would be increased. The maxim which was once proposed for the League, "confidence at all times, and conference as often as possible," will apply to the United Nations. A point which was pressed by the British Commonwealth Delegations was the inclusion in the Charter of conditions of change. Amendments will come into force when adopted by a two-thirds majority of the members of the Assembly, and ratified by two-thirds of the members, including all the permanent members of the Security Council. That is an announcement of international government, since a minority of States which do not approve of the change will be bound by the decision of the majority. The Covenant of the League contained a provision to a different effect: that amendments will not bind a member which signifies its dissent; but in that case it shall cease to be a member.

The Charter provides, too, for a General Conference for the purpose of revision. It may be held at any time by a vote of two-thirds of the Assembly and of any seven members of the Council. The privilege of the Great Powers is not maintained for the decision to hold a Conference. If a Conference has not been held before the Tenth Annual Session of the Assembly, the proposal to call it shall be discussed at that session. Each signatory State must ratify the Charter in accordance with its constitutional process. In the United States the majority of two-thirds of the Senate is required; and it was immediately given, thus marking the end of the American tradition of isolationism in foreign policy. In the United Kingdom the approval of Parliament is necessary and has been given likewise. For the Charter to come into force, it is sufficient for all the Great Powers and a simple majority of the others to ratify. No State will be bound to ratify, but it will cease to be a member of the United Nations if it fails.

The final Article deals with the languages of the Charter. Chinese, English, French, Russian and Spanish texts are equally authentic. The inclusion of Spanish is due to the large participation of Latin American States. The Covenant of the League contained no article about language; but English and French were, in fact, the only official languages of the League. The new international order has from the outset a broader world basis. It is the order of *One World*.

Preparatory Commission

The Charter could not come into force, and the International Organisation be fully established, at once. A Preparatory Commission was appointed at San Francisco to make arrangements for the first session of the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council, for the establishment of the Secretariat, and the convening of the International Court of Justice. The Commission should be "the craftsmen who will get ready the building of which the foundations were laid." The agreement about the Commission describes its functions more specifically:

- (a) to convoke the General Assembly;
- (b) to prepare the provisional agenda for the first sessions of the principal organs of the organisations;
- (c) to prepare for the transfer of certain functions, activities and assets of the League of Nations which may be taken over;
- (d) to examine the problems involved in establishing relations with the specialised organisations and agencies;
- (e) to issue invitations for the nomination of candidates for the International Court.
- (f) to prepare recommendations concerning arrangements for the Secretariat; and,
- (g) to make studies and prepare recommendations concerning the location of the permanent headquarters of the Organisation.

The Commission consists of one representative of each of the fifty Governments which signed the Charter; but out of the larger body an Executive Committee was formed by representatives of the twenty Governments who constituted the Executive Committee of the Conference. They include, besides the Five Great Powers, Australia and Canada. The seat of the Commission is in London; and the first meeting was held on the morrow of the day when final victory over the Axis Powers was declared. The Commission will come to an end as soon as the Secretary-General of the Organisation is elected.

One of the first tasks of the Executive Committee was to appoint an international staff. At its opening meeting, the British Foreign Minister pointed to the opportunity of forming in that way a nucleus for the Secretariat of the Organisation. The staff of the Preparatory Commission will have learned the habit of working together on international questions as an international civil service.

The agreement indicates that the League of Nations is to be

wound up. Its functions and its assets will be transferred to the Organisation; and some of its technical organs will be fitted into the functional pattern of the Economic and Social Council. The I.L.O., in particular, will continue to be an instrument of improved labour standards and social security. The Palaces of the League at Geneva, finished shortly before the outbreak of the war, will not be the home of the Security Council of the United Nations or of the permanent delegations. For it has been decided by the Preparatory Commission that the centre of the world body will be in America. That is another token of the passing of the primacy from Europe.

The Executive Committee is planning to convene the first meeting of the Assembly in January 1946, in London. Already the Charter has been ratified by the necessary number of member States, so that it can come into force as soon as the Assembly can be held.

THE INTERNATIONAL COURT OF JUSTICE

ONE OF THE PRINCIPAL ORGANS of the United Nations is the Court of International Justice. The Charter prescribes in Article 36 that, where a dispute between nations, brought before the Security Council, is of a legal character—the project of Dumbarton Oaks spoke of “*justiciable*”—it should as a general rule be referred by the parties to the International Court.

The history of peaceful settlement of international disputes goes back over a hundred and fifty years to a treaty made between Great Britain and the United States, which was the forerunner of a series of arbitration treaties. International arbitration progressed slowly during the nineteenth century; but in the last year of the century the first World Peace Conference at The Hague adopted a Convention for the establishment of a permanent Tribunal chosen from an international panel. The practice of submitting disputes between States to arbitration was growing before the First World War, but most arbitration treaties excepted from that form of settlement disputes which touched the honour and vital interests of the State.

The Covenant of the League marked an important advance. It provided that a permanent Court of International Justice should be established, and legal disputes between nations should be referred to it. The establishment of the Court at The Hague with fifteen judges, each drawn from a different country, was one of the most encouraging advances towards a peaceful order. The jurisdiction of the Court, as defined in its Statute, was of two kinds: (1) As a court of law, it dealt with disputes between States, heard the parties and gave final judgment. (2) As a judicial instrument of the League, it gave advisory opinions on any legal question submitted to it by the Council or any of the departments. Those opinions were not judgments, but guides on legal issues. During the twenty years of its life, the Court gave judgments and opinions in sixty cases. It continued its sittings at The Hague till 1940, when the incursion of Nazi armies deprived it of a home, and the circumstances of the war prevented further reference to it of international disputes. Some of its judgments disposed of affairs of first-rate importance, e.g. the case between Norway and Denmark concerning sovereignty over Greenland.

Some of its advisory opinions, also, concerned matters of the greatest gravity—for example, the question submitted by the Council in 1931, whether the proposed Customs Union between Germany and the Austrian Republic was in accordance with the Treaties of Peace. That was in one aspect a political issue, and the Court of eleven judges was closely divided.

The Dumbarton Oaks plan proposed the retention of the International Court. Its constitution and functions should be defined in a statute which should be an integral part of the Charter. All members of the Organisation should be parties to the Statute; and the Assembly, upon recommendation of the Security Council, would determine the conditions under which other States might adhere to the Court. The Charter provides that any member shall comply with the decision of the Court in any case to which it is a party. If it fails to perform the obligation under a judgment, the other party may turn to the Security Council, which may make recommendations or decide upon measures to be taken to give effect to the judgment. The provision in the Covenant of the League was less explicit; but in no case hitherto has there been any hesitation of a State to abide by the decision of the Court.

The establishment of the International Court of Justice is not to prevent members of the United Nations having resort to other tribunals by virtue of existing or future agreements. The Permanent Tribunal of Arbitration at The Hague is still in being; and after the First World War, many mixed arbitral tribunals were set up to deal judicially with international differences. It is likely that similar tribunals will be established to settle the infinite number of international suits that will be presented after the war. The Charter maintains the function of the Court in giving advisory opinions. The General Assembly or the Security Council, and other organs and specialised agencies, if authorised by the Assembly, may request the Court for an opinion on legal questions that arise within the scope of their activities.

The Statute of the Court, which is appended to the Charter, follows very closely the Statute of the old Court. But it was decided to create a new Court, and provision is made for application to it of clauses in treaties for the reference of disputes to the—former—International Court of Justice. A Committee of Jurists of the United Nations, which was formed in England in 1943, under the Chairmanship of the late Sir William Malkin, Legal Adviser at the Foreign Office, to consider the revision of the Statute, made many recommendations for change. Few, however, have been adopted. The composition of the Court, its

jurisdiction, the rules of procedure, the provision about advisory opinions, and about the law to be applied, are unchanged. The main difference is that, since all the United Nations are parties to the Statute, two of the Great Powers, the U.S.A., and the U.S.S.R., which did not subscribe to the earlier Statute, are now joined. The competence of the Court, therefore, has been effectively enlarged.

The Court is composed of a body of independent judges elected regardless of their nationality. They must be persons of high moral character who possess the qualification for appointment to the highest judicial office in their country or are authorities in international law. Each judge must come from a different State. The election is carried out by the General Assembly and the Security Council together, taking the place of the Assembly and Council of the League. Candidates are nominated by national groups. The Assembly and Council elect independently, and only those who obtain an absolute majority of votes in each body are appointed. The electors are to bear in mind that representation of the main forms of civilisation and the principal legal systems of the world should be assured. Not only the Anglo-Saxon and the Latin legal systems, but the Chinese, the Russian and Islamic, should be represented by the judges. The term of office is nine years. Formerly, all the judges were elected simultaneously, but by one of the few changes in the new Statute it is provided that a third shall retire every three years. The seat of the Court will remain at The Hague, but the Court may sit and exercise functions elsewhere. Proposals that were put forward for the establishment of branch courts in different parts of the world were not adopted. The quorum is of nine judges, but a Chamber may be constituted of three or more, to deal with labour matters and cases relating to communications.

Judges of the nationality of either of the parties may sit in a case before the Court; but if only one party has a judge of its nationality on the Bench, the other may choose one of its subjects to sit for the particular suit. If the Court includes no judge of the nationality of the parties, each party may appoint a judge. Objection has been raised that the national judges cannot be expected to be impartial towards their State; and in fact they have regularly given a minority judgment in its favour. Yet it has seemed better to let each party have on the Bench a member who can present the views of his country.

The competence of the Court, as of its predecessor, is restricted to suits between States. Proposals that were mooted for allowing international organisations, and, in some cases, individuals, to

institute proceedings, were rejected. That is to be regretted. No change, moreover, was made in the fundamental question of compulsory jurisdiction, although the majority of delegates at San Francisco pressed for an advance in this direction. What was known as the *Optional Clause* in the old Statute is retained in the new. It lays down that member States may at any time declare that they recognise as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes of a certain character, the most important being those which concern the interpretation of a treaty or any question of international law. Between 1920 and 1940, declarations adopting the Optional Clause were made by forty-five States of the League, including Great Britain. Some of them are still in force, and will be deemed to remain in force under the new Statute for the period which they have still to run.

The law which the Court is to apply is defined as in the former Statute. It has four main sources:

- (1) International conventions, whether general or particular, establishing rules expressly recognised by the contesting States.
- (2) International custom, as evidence of a general practice accepted as law.
- (3) The general principles of law, recognised by civilised nations.
- (4) Judicial decisions and the teachings of publicists of the nations.

The experience of the old Court proved that, although international law is still in many directions imperfect, the Tribunal has no difficulty in finding a law applicable to the questions before it. It may, moreover, with the agreement of the parties, decide a case by considerations of general fairness, *ex aequo et bono*—that is, departing from strict law. The old Court was, in fact, not asked to exercise this power of equitable settlement.

A school of judicial Puritans has urged that all disputes between nations, like disputes between individuals in the State, should, failing conciliation, be submitted to the Court. That would secure third-party judgment according either to law or to principles of justice. Many issues, however, between States are essentially political in character, and cannot be satisfactorily resolved by judicial treatment until international law is more developed. The Charter has maintained the old distinction between legal or justiciable disputes, which are for the Court, and others, which, failing conciliation, the Security Council will settle.

The Articles about the Court's procedure contain nothing

novel. The States are represented by agents and by advocates. English and French are the two official languages. Questions are decided by a majority of the judges, and any judge may deliver a separate opinion. The judgment is final and without appeal. The procedure where the Court is asked to give an advisory opinion is much the same, except that the Registrar notifies any State which may be interested, or any international organisation considered as likely to be able to furnish information on the question.

The Statute ends with an Article providing for its amendment. This may be made in the same manner and by the same majority as amendments of the Charter; and the Court itself has power to propose amendments through communication to the Secretary-General. As with the Charter, so with the Court, experience may prepare the way for more radical change. The present provisions preserve the judicial instrument, but do not enlarge its power and functions. But when the new order founded on the Charter gets to work, there may be greater willingness both to widen the competence of the Court and to increase its activity by the formation of branch or regional tribunals. There may be willingness also to adopt compulsory jurisdiction for the special class of cases enumerated above, and so give fuller effect to the rule of law in the international society.

The International Military Tribunal

The establishment of an International Military Tribunal to deal with the crimes which have been committed by Nazi and fascist leaders against the principles of international law and the elementary principles of humanity was emphasised at the conferences of the heads of the United Nations. It has long been a complaint that no penal sanctions existed for the rules of the law of nations, or for the crime of plunging the peoples into war, though the nations have solemnly renounced the right to go to war, and though they have undertaken in many conventions to observe certain rules in the treatment of prisoners, the administration of occupied territories, etc. At the end of the First World War a clause was inserted in the Peace Treaty with Germany indicting the German Emperor for an offence against humanity in provoking war; and provision was made for trying by German courts German officers who were charged with outrages. But the Kaiser was protected by the asylum in neutral Holland; and the German courts, which had to try their nationals for their war crimes proved, as was to be expected, unsatisfactory tribunals.

This time the Allies have been bolder and more determined. The courts of the victors are trying those charged with acts which horrified humanity. The majority of those who have committed the abominations will be tried by national or military courts of the Allies in the countries where the offence was committed. The Belsen trial by a British military tribunal in Germany is an example. But for the trial of those "whose offence had no particular geographical location," the Allies in August, 1945, set up an International Tribunal, and in a Charter prescribed its constitution, jurisdiction and functions.

It is an International Military Tribunal "for the just and prompt trial and punishment of the major war-criminals of the European Axis." It has been composed of four members, each representing one of the four Great Powers concerned in the European War, the United Kingdom, U.S.A., U.S.S.R., and France. Each member must have an alternate appointed likewise, who will be present at all sessions of the Tribunal. Both the British member and his alternate are judges of the High Court. The presence of all four members, or the alternate for any absent member, is necessary to constitute the quorum. At least three must vote for conviction.

The major provisions of the law of nations in war were well-known, if not well observed. But there were gaps and uncertainties about penalties, about procedure and individual responsibility for wrongful acts. These have been filled in by the Charter, which deliberately creates the law and makes an innovation in the normal procedures of justice. Individual responsibility is to be imputed where the group or organisation of which the individual was a member is declared by the tribunal to be a criminal organisation. The official position of the accused will not free them from responsibility, but may be considered in mitigation of punishment. Three classes of crimes for which there will be individual responsibility come within the jurisdiction of the Tribunal: (a) crimes against peace, which include planning, preparation, initiation of a war of aggression, or war in violation of international treaties—such as the Kellogg Pact renouncing war; (b) war crimes, which are violations of the laws or customs of war, and include deportation to slave labour of the civilian population in occupied territories, murder or illtreatment of prisoners of war, the killing of hostages, etc.; (c) crimes against humanity: "murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population before or during the war: or persecutions on political, racial or religious grounds in connection with any crime within the

jurisdiction of the Tribunal." This clause will include the barbarous massacring of Jews, whether German subjects or others, and whether before or during the war.

To ensure fair trial for the accused, rules, which are in accord with natural justice and represent a combination of Anglo-American and foreign procedure, are adopted. It must have required considerable persuasion to obtain the agreement of the Soviet Union to a procedure which is very different from that of their State trials and trials for war crimes. Some exceptions from the usual practice are admitted. The Tribunal is not bound by technical rules of evidence, and shall admit any evidence which it deems to have probative value. All the court proceedings will be conducted in four languages: English, French, Russian and the language of the accused. As Justice Jackson of the U.S.A., who was largely responsible for the Charter, points out: this requirement will make the trial a dreary business "and there is no use trying to dodge that fact." But in the special circumstances of criminal trial the practice in the Court of International Justice of admitting only two official languages, English and French, could not well be followed.

The first trials will be held at Berlin or Nuremberg, which was the centre of the Nazi rallies that prepared and preceded the aggressions. But the Grand Assize may be held in many places. It is the first, and we may hope the last, time that an international court must try war crimes. The Charter of the International Military Tribunal may, however, be a prelude to the establishment of international courts for trying offences against security and international peace committed in times of peace. By the side of the Court of International Justice, which is concerned with civil disputes between nations, there may be a criminal court concerned with individual acts which menace international understanding, or which violate the principles of humanity.

CHAPTER VII

THE COLONIAL QUESTION AND TRUSTEESHIP COUNCIL

A STRIKING INNOVATION of the Covenant of the League was to introduce trusteeship, under international supervision, for the government of certain colonies. What is known as the "Mandate System"—from the Latin word *mandatum*, which is similar, if not equivalent, to our "trust"—was applied to colonies and territories which had been under the sovereignty of Germany and Turkey, and were inhabited "by peoples not yet able to stand by themselves under the strenuous conditions of the modern world." The well-being and development of these peoples was declared to be a sacred trust of civilisation, and securities for the performance of the trust were prescribed by the League, which entrusted the administration of each territory to a member State.

From the seventeenth to nineteenth century, colonial government had been essentially a matter of national policy, and directed to national interests, though British statesmen professed the doctrine of trust for the well-being of the native peoples, and British Free Trade opened the Colonies to the trade of all nations. Burke in 1783, said that the British consider themselves as trustees for the welfare of the people of India; and a century later, Joseph Chamberlain, then Colonial Minister, said that, "as soon as we acquire a new territory, we develop it as trustees of civilisation for the commerce of the world." But that was a self-imposed trust, for which the Government was responsible only to the British people, and gave an account only to the British Parliament. International interest in colonies was asserted first in the latter part of the nineteenth century, when the European Powers were dividing up Africa, and came to agreement among themselves about the conditions of the scramble. Conventions of Berlin (1885) and Brussels (1890) provided for the administration of colonies in the Congo Basin in such way as to give equal economic rights to the subjects of all nations, to control traffic in arms, to put down slavery, etc., but no organisation was set up to see to the execution.

The Mandate system marked a positive advance. The Administration of the territory under trust was required to follow

directions of the Council of the League, embodied in a Constitutional document about the principles of policy, and to give annually an account to a body appointed by the Council. There was a double trust; to secure the well-being of the native people, and to accord equal opportunities for the commerce and enterprise of other members of the League. A Permanent Mandates Commission, composed of nine to eleven members, each from a different country, and chosen as an expert in colonial affairs or public administration, was constituted to examine the reports and to advise the Council. Each of the States holding a Mandate was represented on it. The Commission not only received written reports about each territory, but conducted a *viva-voce* examination of the Mandatory. The Governor or High Commissioner, or the Chief Secretary, of the territory, or a high official of the Colonial Office, would be interrogated about the contents of the Report and the work of the Administration. The Commission received petitions also from any individual or body in the territory who had a grievance, and the examination of petitions, about which they questioned the representative of the Mandatory, was part of their scrutiny. The work of the Commission, which sat for two periods of about a month annually, was prepared by permanent officials of a section of the League; but the Commission had no inspectors, nor was it entitled to visit the Mandated territories, or to take the initiative in measures for the well-being and social advance of the peoples. Inevitably, it was critical and watchful, but not constructive. The minutes of its proceedings were published in full, and gave to all concerned a detailed account of what was being done in each territory. It possessed, however, no executive authority. It could only offer recommendations to the Council of the League, and in the Council political considerations might override its advice. The main sanction, therefore, of the system was publicity, the moral force of the judgment of an international body which approached its task objectively.

Yet the Geneva spirit was a tonic for colonial governments. Although the Mandate system was not extended to the colonies and dependencies of the victorious nations, but was restricted to the colonies of defeated Germany, within its limited scope it brought about improvements in the care of the native peoples and fairer economic opportunity for all. The virtue of the League Mandate was that the trust was subject to an accounting to an international authority. And it seemed that, if the principle of accountability and international scrutiny was good for peoples in the former German colonies, it would be good also for peoples

in British, French and Belgian colonies which had not yet attained or approached self-government.

The circumstances of the Second World War, and particularly the Japanese conquest and occupation of British, French and Dutch colonies and protectorates in the Far East, caused a general stirring of opinion about the colonial question. The American public was specially concerned about British colonial administration, and called for the liquidation of the colonial status and a declaration of independence for subject peoples. In the United States the word "colony" has kept, since the War of Independence, the association with a tyrannical government denying freedom to the subject. Wendell Willkie, in his tour and survey of the world, emphasised the demand for a principle of accountability to be discharged by any Power which rules dependent territories. The international interest existed alike in the progress of the peoples to self-government, and in the use of the resources of the country for the good of the world.

In the middle period of the war, when the crisis sharpened our sensibility for reform in internal and external policy, a principle of accountability as a function of colonial rule received general recognition from the British and Dominion governments. Field-Marshal Smuts, about the same time, advocated the grouping of colonies of different nations in regional units, and the formation of regional councils, which should promote economic and social planning and conduct a scrutiny of development. Mr. Evatt, Secretary for External Affairs of the Australian Commonwealth, suggested that the principle of Trust should be extended to the economic as well as to the political and social factors of different territories.

At the same time, the plan of linking colonies of the Allies for purposes of co-operation in economic and social measures was furthered by the necessities of war. In the Caribbean region of the West Indies, we were associated with the United States in a Joint Commission. In West Africa the British, the Free French, and the Belgian Colonial administrations were for a time under the general direction of a Minister of State. In the Southern Hemisphere, Australia and New Zealand, which held Mandates, proposed in 1943, by the Treaty of Canberra, to set up a South Seas Regional Commission in which, besides themselves, the United Kingdom, U.S.A., and France should have part. It should exercise advisory functions relating to the welfare of the native populations in the South and South-west Pacific. In the following year, the Premier of New Zealand, Mr. Fraser—who was the Chairman of the Committee at San Francisco dealing

with colonial questions and Trusteeship Council—emphasised at a conference of the Southern Dominions the purposes of a Regional Commission. "It should be a means by which the Governments and Administrations of the South Seas area may improve their experience, and collaborate in joint schemes, with a view to furthering the welfare of the dependent peoples and their social, economic, and political development. Representatives of the dependent peoples should be associated wherever possible with the regional body, and with any of the welfare and research agencies which may be brought within its framework." That is the first definite and practical proposal which has been put forward for associating the native peoples with the regional authority.

It is relevant to note the heightened sense of responsibility for the welfare of the colonial peoples which has been aroused in Britain during the war. It has been borne in upon the common people, as well as on the statesmen, that we have neglected the economic well-being of 60,000,000 subjects of the Colonial Empire. In the first year of the war, a measure was passed through Parliament raising the fund available for colonial welfare and development from the maximum of £1,000,000 a year to £5,000,000 a year; and in the sixth year of the war, another measure raised the sum to £12,000,000 a year.

The Colonial Committee of the London International Assembly, a body which included representatives of the Allied Countries, recommended in 1943 the establishment of an International Colonial Commission to receive and examine reports on the progress of all colonial peoples. In the following year, the International Labour Office, at its Conference at Philadelphia, adopted detailed recommendations about social policy in all dependent territories. It defined the minimum standards which range over the whole field of social legislation; and called for the abolition of all discrimination against workers, on grounds of race and colour, as regards their admission to public or private employment.

The project of Dumbarton Oaks contained nothing about colonial trusteeship, and nothing about the maintenance of the Mandate system of the League. At San Francisco, however, the subject had prolonged attention, and three chapters of the Charter deal with it. The first contained a declaration about non-self-governing territories, which comprise one quarter of the world's population. It adopts the principle, implicit in the Covenant for the territories placed under a Mandate, that the interests of the inhabitants are *paramount*, and that the governing Powers

accept as a sacred trust the obligation to promote their well-being to the utmost. It is noteworthy that the phrase about “paramountcy” of the interests of the natives was used in a famous White Paper of 1930, issued by the Colonial Office with regard to the inhabitants of the British colony of Kenya. Yet there and in other colonies in Africa, the native is excluded by a colour bar from many callings. The large purpose is to be pursued in ways which are described, but are left sufficiently vague:

“(a) To ensure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment, and their protection against abuses.

“(b) To develop self-government, to take due account of the political aspirations of the peoples, and assist them in the progressive development of their free political institutions. . . .

“(c) To further international peace and security.

“(d) To promote constructive measures of development, to encourage research, and to co-operate with one another and with specialised international bodies, with a view to the practical achievement of the social, economic and scientific purposes. . . .” (Article 73.)

No specific duty of accounting to any outside body is prescribed, and no right of interference is given to the United Nations. But a minimum of responsibility to the International Society is enjoined. The governing Powers will transmit to the Secretary-General “for information purposes, subject to such limitations as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are responsible.” Another general article states that members of the United Nations will, in respect of the colonial territories, no less than in respect of their metropolitan areas, base their policy on the general principle of good neighbourliness. Colonies are not to be closed areas. While the obligations of the Mandate as to the Open Door are not to be extended to all colonial Administrations, some approach to the principle is recommended. The general clause is an advance on the general provision in the Covenant of the League, by which members simply undertake to secure just treatment of the native inhabitants of territories under their control. It is, however, subject to the same defect, that no machinery is provided for the enforcement of the undertaking.

The more thorough extension of the idea of the Trust is in the

second chapter, (XII), which is headed "International Trusteeship System." It is applied to territories, which will be placed under it by individual agreement, in one of the following categories:

- (a) Now held under Mandate.
- (b) Which may be detached from enemy States as a result of the war. This covers the Italian colonies in Africa, Cyrenaica, Eritrea and Somaliland, and the Japanese possessions and mandated islands in the Pacific.
- (c) Those which may be voluntarily placed under the system by States responsible for their administration. It is a matter for subsequent agreement which territories in these categories will be brought under the Trusteeship system, and upon what terms. Again, there is no compulsion on the colonial power; and several British Colonies which are approaching self-government, e.g. Ceylon, Jamaica and Malta, would not be suitable for transfer to the international trusteeship. The system is expressly not applicable to territories which have become members of the United Nations, relationship among them being based on respect for the principle of sovereign equality. That exclusion covers Syria and the Lebanon Republics, which were under a French Mandate, but were admitted as independent States to the Conference of San Francisco. They were involved in violent outbreak against the French during the sessions, but those differences will be for the consideration of the Security Council if they come before the United Nations, and not for the Trusteeship Council.

The objects of the Trusteeship system are not very different from those in the Declaration regarding non-self-governing territories. What is new, compared with the Mandate system, is a double objective placed in the forefront: (a) "to further international peace and security"; and (b) "to encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion, and to encourage recognition of the interdependence of the peoples of the world." Two main purposes of the present Mandates are also included: (1) to promote progressive development towards self-government or independence, as may be appropriate to the particular circumstances of each territory, and freely expressed wishes of the peoples concerned; (2) to ensure equal treatment in social, economic and commercial matters for all members of the United Nations and their nationals, and also equal treatment in the administration of justice. The obligation of equal economic treatment is not absolute, as in the Mandates, but is subject to the attainment of the well-being of the peoples. The furtherance

of security and regard for human rights and fundamental freedoms are aspects of international relations which have received added significance in the last decades.

For every colony placed under the Trusteeship system, and for any territory under Mandate transferred to it, there shall be a special document defining the terms of the Trust. It shall state in each case the conditions under which the territory will be administered, and designate the authority which will exercise the administration. It may be one or more States, or the Organisation itself. The Mandate of the League of Nations was entrusted to a single State. The system proposed is more flexible. Perhaps the West Indies, or some of them not yet self-governing, will be under a form of Anglo-American Trust, following the war example of the Caribbean Commission. And perhaps the experiment of an international government for a colonial territory, often advocated and often attacked with scorn, will be tried out. It might be applied, for example, to a union of Somali territories, which have been divided between Great Britain and France and Italy with no happy results for the native peoples or the administrations. The approval of the terms of the Trust, and of their alteration or amendment, will be a matter for the General Assembly; but the Trusteeship Council will assist it in carrying out these functions and all others concerned with the Trust. In the League system the Council exercised that function in respect of the Mandates; but in the new division of labour between Security Council and Assembly—the larger body is obviously appropriate.

The destiny of the former League Mandates is not certain. An unfortunate vagueness has been left in the Charter, and a definite obligation is not laid. The transfer from the old supervision to the new, and any amendment to the terms of the Trust, are only to be made by agreement of the Powers directly concerned, including the present Mandatory. Thus Palestine, which is still administered by Great Britain under the terms of the League Mandate, would not be brought under the Trusteeship Council unless the British Government agreed. And an Article prescribes that, till a fresh agreement is made, there shall be no alteration of the rights of any States or any peoples, or the terms of existing international instruments to which members may be parties. It is believed that the Article had particularly in view the position of Palestine where the Trust is to facilitate the establishment of the Jewish National Home, and that object is pursued in a series of directions to the Administration about encouraging Jewish immigration, close settlement on the land, etc. These

provisions could not be changed without a fresh agreement.

A novel feature of the Trusteeship system is the provision made for defence. While the Mandatory of the League was enjoined against raising forces or constructing fortifications and bases in the Trust territories, except for purposes of local defence, the outlook of the Charter in this respect is completely different. In every case it is the duty of the administering authority to ensure that the Trust territory should play its part in the maintenance of international peace and security. It may make use of volunteer forces, facilities, and assistance from the territory in carrying out its obligations toward the Security Council, as well as for local defence and the maintenance of law and order within the territory. There may be designated in any Trusteeship agreement a strategic area or areas, which may include part or all of the Trust territory (Article 82). All functions of the United Nations relating to strategic areas, including the approval of the terms of the agreements, shall be exercised by the Security Council (83). The United States pressed for that innovation; it had in mind, no doubt, the special strategic importance of some of the Pacific islands under Japanese Mandate, which, having been fortified in violation of the Mandate, became bases for the Japanese Fleet and Air Force. New Guinea, too, which was under a British Mandate, proved after the Japanese occupation to be a vital strategic area, and may, after the war, be appropriate for treatment as a strategic area. In Palestine it is possible that the port of Haifa and the area around it, which is an outlet of the oil pipeline from Irak, and the site of an oil refinery, may be detached from the rest of the country as a strategic area.

The experience of the Second World War proved the incompatibility of restricting the use of ports, communications, etc. in Colonial and Mandated territories, in the conditions of total war. Among British Colonies which might be declared strategic areas and brought under the supervision of the Security Council are those which have for long been vital points in world communications; Gibraltar, Aden, and Singapore. The Security Council may refer to the Trusteeship Council the supervisory functions of the United Nations relating to political, economic, social and educational matters in the strategic areas.

The Trusteeship Council, which will take the place of the Permanent Mandates Commission, is the subject of the third chapter. Like its predecessor, it is to be composed partly of the representatives of governments administering the Trust territories, and partly of representatives of other governments. The latter must include representatives of the other Great Powers, who

will be permanent members. The number is to be equally divided between members of the United Nations which administer Trust territories and those which do not, and the balance of members will be elected for three-year terms by the General Assembly. In the Mandates Commission the members who were nationals of the Mandatory Powers were in the minority, and all members were chosen not by their governments, but by the Council of the League as persons with special qualifications. Members of the Trusteeship Council will be representatives of governments, though it is stipulated that they shall be specially qualified.

The functions of the Council, and of the Assembly for which it acts, are: (a) to consider reports submitted by the Administering Authority; (b) accept petitions and examine them in consultation with the Authority; (c) provide for periodic visits to the Trust territories at times agreed upon with the authority. The two former functions have been exercised by the Mandates Commission of the League. The last is an innovation and welcome. It was one of the defects of the Mandate system that the Commission was not entitled to visit the territories which it supervised, even if there was grave unrest. The Council is to formulate a questionnaire on the political, economic, social and educational advance of the inhabitants of each territory; and the administering authority will prepare his annual report to the Assembly upon that basis. This is in accordance with the old practice of the League Mandates, and doubtless the examination of the written report will be accompanied by an interrogation of a representative of the government. The Trusteeship Council is to avail itself of the assistance of the Economic and Social Council and of the specialised Agencies in regard to matters with which they are concerned. It was the practice of the Mandates Commission to call into its sessions a representative of the International Labour Office to assist in the examination of Labour conditions in the Mandated Territories.

The System of the Charter is calculated to secure by international supervision the observance of international standards for advancing the well-being of the native peoples, and the resolute development of dependent territories towards self-government. With the enhanced understanding of the Colonial Powers themselves, and particularly of the British peoples, as to their responsibility for the native peoples under their rule, colonial government will be both a partnership and an international trust.

CHAPTER VIII

HOPES AND FEARS

SINCE THE CHARTER OF THE United Nations was signed at San Francisco, and immediately after it had been ratified by the Senate of the U.S.A., a terrifying aspect of the revolution, through which the world has been passing for thirty years, has been revealed. The launching of the atomic bomb on towns in Japan proved dramatically man's power to destroy utterly his own civilisation. Fear, which was a motive for strengthening national armament, is now a strong motive for international control of armament. In announcing its first employment, Mr. Churchill spoke of the terrible influence of the new weapon for maintaining the rule of law. Eminent scientists pointed out that science was now a protagonist in the war of nations, but an unwilling conscript; and that the masters of science should bind themselves together to secure a truly international control of the discovery which, if used for national ambitions, would wipe man off the earth like the flood recorded in the Bible. National frontiers appear to be meaningless, and bases to ensure vital national interests to be already obsolete. The military clauses of the Charter seem at once out of date. What is said in Scripture about the strong man armed is fulfilled. "When a stronger than he should come upon him, he taketh from him his whole armour, wherein he boasted."

Dr. Johnson remarked that a man waiting under sentence of death has an extraordinary stimulus for thinking. A similar stimulus may be given to mankind by the suspended sentence of death on the race. The hesitations of the rulers of the Great Powers at the Crimea and San Francisco Conferences to give up any part of their sovereignty, in the supposed cause of national security, may be resolved by the altogetherness of facts. It seems obvious that power over the atom and cosmic forces should be controlled by the International Organisation, and that would be presumably the Security Council advised by the military staff. The need for action by a world authority to preserve peace, through its disposal of this weapon, was emphasised in the debate on the Charter in the House of Commons. It calls for a revolution in mankind's political thinking. If nationalism has been hitherto

the most powerful social impulse, and national armament the most prized instrument of sovereignty, they are now equally discredited as the ultimate forms of social organisation and defence. Now is the moment for a resolute endeavour to transcend them. The new power of annihilation should compel the nations in the direction of unity. Yet the American President has announced that his country will not share with others the secret of the manufacture of the atomic bomb.

The necessity of strengthening the rule of law between nations is overwhelmingly urgent. The principles stated in the Preamble to the Charter have received an unexpected immediacy, and a reinforcement of the moral forces is essential. For there cannot be a world change unless man is changed individually and collectively. The Atlantic Charter points to the spiritual as well as to the practical motives for abolishing armaments. And the spiritual and moral factors are as necessary for the establishment of one humanity, a world order and the rule of justice as the temporal powers, the representatives of governments, the labour organisations, the economic and social experts. The Charters will only become a foundation of peace and permanent articles of faith if the moral feelings of the people are engaged to maintain them. Without that they will be a tragic illusion.

It is clear, too, that the Charter of the United Nations is only a first and a halting step towards world government. Had the Conference met half a year later, it might have had a different shape. Once it is operating, some of the plans and proposals on which it is based will certainly be changed and will be replaced by other activities. In order that it shall not share the fate of the Covenant, which was hailed prematurely by President Wilson as the birth of a living thing, and in order that the new structure shall be firmly founded in the mind of the common man, a new mood is required, a mood of trust between the nations and peoples. The signs during the last months have not been auspicious. The world revolution, which began in 1917, is still passing through its period of destruction and suspicion. The old order lies in ruins. Unless the human race is to perish by its own hand, it must enter a new era of world history, a period of rebuilding, moral reformation and cultural rebirth. It depends on the will and understanding of the common man whether the Charters of the United Nations shall become pillars of a world society or mocking figments of the mind.

APPENDIX

CHARTER OF THE UNITED NATIONS

WE, THE PEOPLES OF THE United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

and for these ends

to practise tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples have resolved to combine our efforts to accomplish these aims.

Accordingly, our respective Governments, through representatives assembled in the City of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organisation to be known as the United Nations.

CHAPTER I.—PURPOSES AND PRINCIPLES

Article I

The Purposes of the United Nations are:

i. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and

removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonising the actions of nations in the attainment of these common ends.

Article 2

The Organisation and its Members, in pursuit of the purposes stated in Article 1, shall act in accordance with the following principles:

1. The Organisation is based on the principle of the sovereign equality of all its members.

2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action.

6. The Organisation shall ensure that States which are not Members of the United Nations act in accordance with these

Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II.—MEMBERSHIP

Article 3

The original members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organisation at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organisation, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organisation by the General Assembly upon the recommendation of the Security Council.

CHAPTER III.—ORGANS

Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV.—THE GENERAL ASSEMBLY—COMPOSITION

Article 9

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

FUNCTIONS AND POWERS

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a member of the United Nations in accordance with Article 35, paragraph two, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question, on which action is necessary, shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

(a) Promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;

(b) Promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realisation of human rights and fundamental freedom, for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from the violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organisation.
2. The expenses of the Organisation shall be borne by the Members as apportioned by the General Assembly.
3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialised agencies referred to in Article 57 and shall examine the administrative budgets of such specialised agencies with a view to making recommendations to the agencies concerned.

VOTING

Article 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present

and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organisation shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V.—THE SECURITY COUNCIL—COMPOSITION

Article 23

1. The Security Council shall consist of 11 Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance, to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organisation, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

FUNCTIONS AND POWERS

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

VOTING

Article 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

PROCEDURE

Article 28

1. The Security Council shall be so organised as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organisation.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such place other than the seat of the organisation as in its judgment will best facilitate its work.

Article 29

The Security Council may establish subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member as specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute.

The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI.—PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute or any situation of the nature referred to in Article 34 to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party, if it accepts in

advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33-37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII.—ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade and other operations by air, sea or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or

between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that member, if the member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43 by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed

forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorisation of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any State are taken by the Security Council, or any other State, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures, shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII.—REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangement, or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilise such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements, or by regional agencies without the authorisation of the Security Council, with the exception of measures against any enemy State, as defined in Paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organisation may, on request of the governments concerned, be charged with the responsibility for preventing further aggression by such a state.
2. The term enemy State as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX.—INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- (a) Higher standards of living, full employment, and conditions of economic and social progress and development;
- (b) solutions of international economic, social, health and related problems; and international cultural and educational co-operation; and
- (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organisation for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialised agencies, established by inter-governmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialised agencies.

Article 58

The Organisation shall make recommendations for the co-ordination of the policies and activities of the specialised agencies.

Article 59

The Organisation shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialised agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organisation set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X.—THE ECONOMIC AND SOCIAL COUNCIL— COMPOSITION

Article 61

1. The Economic and Social Council shall consist of 18 Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. At the first election, 18 members of the Economic and Social Council shall be chosen, the term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

FUNCTIONS AND POWERS

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international, economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialised agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialised agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialised agencies. It may make arrangements with the Members of the United Nations and with the specialised agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialised agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

VOTING

Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialised agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialised agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organisations which are concerned with matters within its competence.

Such arrangements may be made with international organisations and, where appropriate, with national organisations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on request of a majority of its members.

CHAPTER XI.—DECLARATION REGARDING NON- SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognise the principle that the interests of the inhabitants of these territories

are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and to this end:

(a) To ensure, with due respect for the culture of the peoples concerned, their political, economic, social and educational advancement, their just treatment, and their protection against abuses;

(b) To develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

(c) To further international peace and security;

(d) To promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialised international bodies with a view to the practical achievement of the social, economic and scientific purposes set forth in this Article; and

(e) To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good neighbourliness due account being taken of the interests and well-being of the rest of the world, in social, economic and commercial matters.

CHAPTER XII.—INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are herein-after referred to as Trust Territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- (a) To further international peace and security;
- (b) To promote the political, economic, social and educational advancement of the inhabitants of the Trust Territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the people concerned, and as may be provided by the terms of each trusteeship agreement;
- (c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- (d) To ensure equal treatment in social, economic and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- (a) Territories now held under mandate;
- (b) Territories which may be detached from enemy states as a result of the Second World War; and
- (c) Territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79 and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organisation itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII.—THE TRUSTEESHIP COUNCIL—COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- (a) Those Members administering trust territories;
- (b) Such of those members mentioned by name in Article 23 as are not administering trust territories; and
- (c) As many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- (a) Consider reports submitted by the administering authority;
- (b) Accept petitions and examine them in consultation with the administering authority;
- (c) Provide for periodic visits to the respective Trust Territories at times agreed upon with the administering authority; and;
- (d) Take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a *questionnaire* on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such a *questionnaire*.

VOTING

Article 89

- 1. Each member of the Trusteeship Council shall have one vote.
- 2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

- 1. The Trusteeship Council shall adopt its own rules and procedure, including the method of selecting its President.
- 2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialised agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV.—THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialised agencies, which may at any time be so authorised by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV.—THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organisation may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organisation.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organisation.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organisation. They shall refrain from any action which might reflect on their position as international officials, responsible only to the Organisation.
2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.
2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI.—MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organisation shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organisation shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organisation shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organisation.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII.—TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30th October, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organisation as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorised as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII.—AMENDMENTS

Article 108

Amendments to the present Charter shall come into force for all members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified

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